2888.

SUPREME COURT OF THE UNITED STATES.

No. 203.

THE UNITED STATES, PLAINTIFF IN ERROR,

v.

JAMES COLLIER.

IN ERROR TO THE CIRCUIT COURT OF THE UNITED STATES FOR THE SOUTHERN DISTRICT OF NEW YORK.

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United States of America, *ss.*

The President of the United States of America,

To the Judge of the Circuit Court of the United States for the Southern District of New York, in the Second Circuit. Greeting:

Because in the record and proceedings, as also in the rendition of the judgment of a plea which is in the said Circuit Court, before you, or some of you, between the United States of America, Plaintiffs, and James Collier, Defendant, a manifest error hath happened, to the great damage of the said the United States of America, the said plaintiffs as is said, and as appears by their complaint: We, being willing that such error, if any hath been, should be duly corrected, and full and speedy justice done to the parties aforesaid in this behalf, do command you, if judgment be therein given, that then, under your seal, distinctly and openly, you send the record and proceedings aforesaid, with all things concerning the same, to the Justices of the Supreme Court of the United States at the Capitol in the City of Washington, together with this writ, so that you have the same at the said place, before the Justices aforesaid, on the first Monday of December next, that the record and proceedings aforesaid being inspected, the said Justices of the Supreme Court may cause further to be done therein, to correct that error, what of right and according to the law and custom of the United States ought to be done.

Witness the Hon. Roger B. Taney, Chief Justice of the Supreme Court of the United States, this twenty-ninth day of October, in the year of our Lord one thousand eight hundred and fifty-six, and of the Independence of the United States the eighty first.

J. W. NELSON,
Clerk of the Circuit Court of the United States of America, for the Southern District of New York, in the Second Circuit.

JOHN McKEON,
U. S. Attorney.

The answer of the Honorable, the Judge of the Circuit Court of the United States for the Southern District of New York, to the within writ containing the Citation, Bill of Exceptions, and Judgment Record, in the within-mentioned cause, as appears by the schedules hereunto annexed.

KENNETH G. WHITE,
Clerk.

[Indorsed.] United States Supreme Court. The United States, Plaintiffs in Error, v. James Collier, Defendant in Error. Writ of Error. John McKeon, United States District-Attorney. Due service

of a copy of the within writ of error is hereby admitted. John A. Collier, Defendant's Attorney. Filed October 30, 1856.

By the Honorable Samuel Nelson, one of the Judges of the Circuit Court of the United States, for the Southern District of New York, in the Second Circuit, to James Collier.

Whereas, the United States of America, lately issued out of the Circuit Court of the United States, for the Southern District of New York, in the Second Circuit, a Writ of Error, directed to the Judge of the Circuit Court of the United States, for the Southern District of New York, in the Second Circuit, stating, that in the record and proceedings, as also in the rendition of the judgment of a plea in the said Court, before the Judge thereof, between the United States of America, plaintiffs, and James Collier, defendant, a manifest error hath happened, to the great damage of the said United States of America.

And whereas, for the correction of that error in due manner, the said writ has been issued, returnable at the next stated session of the Supreme Court of the United States, at the City of Washington, on the first Monday of December next; you are, therefore, hereby cited to appear before the said Supreme Court, at the City of Washington, the said first Monday of December next, to do and receive what may appertain to justice to be done in the premises.

Given under my hand at the City of New York, in the Southern District of New York, in the Second Circuit, the 29th day of October, in the year of our Lord one thousand eight hundred and fifty-six, and of the Independence of the United States the eighty-first.

S. NELSON.

[Indorsed.]

Supreme Court, U. S. The United States, Plffs. in Error, v. James Collier, Deft. in Error. Citation. John McKeon, U. S. Attorney. Due service of a copy of the within citation is hereby admitted, dated October 29th, 1856. John A. Collier, Defendant's attorney. Filed Oct. 30, 1856.

Pleas before the Circuit Court of the United States of America, for the Southern District of New York, in the Second Circuit, held at the City Hall, in the City of New York, of the Term of September, in the year of our Lord one thousand eight hundred and fifty-two.

J. W. NELSON,
Clerk.

Be it remembered, that on the tenth day of May, in the Term of May, A.D., 1852, before the Honorable Samuel R. Betts, District Judge of the said Second Circuit, at a stated term of the said Court, at the City Hall, in the City of New York, came the United States

of America, by J. Prescott Hall, their Attorney, and brought their bill and filed their declaration against James Collier, defendant in custody, &c., in a plea of trespass on the case as follows, that is to say:

Southern District of New York, *ss.*

The United States of America, plaintiffs in this suit, by J. Prescott Hall, their Attorney, complain of James Collier, defendant in this suit, being in custody, &c., of a plea of trespass on the case upon promise. For that, whereas, the said defendant, on the fourteenth day of January, in the year one thousand eight hundred and fifty-one, at the City of New York, and within the jurisdiction of this Court, was indebted to the said plaintiffs in the sum of one million dollars, lawful money of the United States of America, for so much money before that time lent and advanced by the said plaintiffs to the said defendant, and at the special instance and request of the said defendant. And being so indebted, the said defendant, in consideration thereof, afterwards, to wit, on the same day and year, last aforesaid, and at the place aforesaid, undertook, and then and there faithfully promised the said plaintiffs well and truly to pay unto the said plaintiffs the said sum of money, last above mentioned, when the said defendant should be thereunto afterwards requested. And whereas, also, the said defendant afterwards, to wit, on the same day and year last aforesaid, and at the place aforesaid, was indebted to the said plaintiffs in the further sum of seven hundred and ninety-one thousand and sixty-five dollars and thirty-one cents like lawful money as aforesaid, for so much money before that time paid, laid out, and expended by the said plaintiffs, to and for the use of the said defendant. And being so indebted, the said defendant in consideration thereof, afterwards, to wit, on the same day and year last aforesaid, and at the place aforesaid, undertook, and then and there faithfully promised the said plaintiffs well and truly, to pay unto the said plaintiffs the said sum of money last above mentioned, when the said defendant should be thereunto afterwards requested.

And whereas, also, the said defendant afterwards, to wit, on the same day and year last aforesaid, and at the place aforesaid, was indebted to the said plaintiffs in the further sum of seven hundred and ninety-one thousand sixty-five dollars and thirty-one cents, like lawful money, as aforesaid, for money before that time had and received by the said defendant, to and for the use of the said plaintiffs. And being so indebted, the said defendant, in consideration thereof, afterwards, to wit, on the same day and year last aforesaid, and at the place aforesaid, undertook, and then and there faithfully promised the said plaintiffs well and truly to pay unto the said plaintiffs the said sum of money last above mentioned, when the said defendant should be thereunto afterwards requested.

And whereas, also, the said defendant afterwards, to wit, on the same day and year last aforesaid, and at the place aforesaid, accounted, together with the said plaintiffs, of and concerning divers other sums of money, before that time due and owing from the said defendant to the said plaintiffs, and then and there being in arrear and unpaid, and upon such accounting, the said defendant then and there was found to be in arrear and indebted to the said plaintiffs in the further sum of seven hundred and ninety-one thousand and sixty-five dollars and thirty-one cents, like lawful money as aforesaid. And being so found in arrear, and indebted to the said plaintiffs, the said defendant, in consideration thereof, afterwards, to wit, on the same day and year last aforesaid, and at the place aforesaid, undertook, and then and there faithfully promised the said plaintiffs, well and truly to pay unto the said plaintiffs the said sum of money last above mentioned, when the said defendant should be thereunto afterwards requested. Nevertheless, the said defendant (although often requested, &c.), has not yet paid the said several sums of money above mentioned, or any or either of them, or any part thereof, to the said plaintiffs, but to pay the same, or any part thereof, to the said plaintiffs, the said defendant has hitherto wholly refused, and still doth refuse, to the damage of the said plaintiffs of one million dollars, and thereof the said plaintiffs bring suit, &c.

And now, at this day, that is to say, in the Term of September, in the year one thousand eight hundred and fifty-two, until which day the said defendant had leave to answer the said bill and declaration of the said plaintiffs, before the Honorable Samuel R. Betts, District Judge as aforesaid, at the City Hall, of the City of New York, comes the said defendant into the said Court, by John A. Collier, his Attorney.

And the said defendant defends the wrong and injury when, &c., and says that he did not undertake and promise in manner and form as the said plaintiffs have above complained against him, and of this he puts himself upon the country, and the said plaintiffs do the like, &c.

To which plea was subjoined a notice of all the special matters relied upon by the defendant as a defence to the said action, and in bar thereof, and also notice of his claims and demands against the said plaintiffs, relied upon as a set-off in said action, and claiming a balance to be certified in his favor against the said plaintiffs.

Therefore, let a jury thereupon come to try the issue so joined as aforesaid, at the next term of the said Circuit Court, to be held at the City Hall, of the City of New York, on the first Tuesday of November next, by whom, &c., and who neither, &c., to recognize, &c. The same day is given to the parties aforesaid, at the same place.

At which day and place, before the said court, came the parties aforesaid, by their attorneys aforesaid.

And thereupon a respite of the said jury is granted and continued to the term of the said Circuit Court to be held at the City Hall, in the City of New York, on the first Monday of April, A. D. 1854. The same day is given to the parties aforesaid at the same place.

And on the thirteenth day of February, A. D. 1854, it was stipulated and agreed by and between the attorneys of the respective parties, that all matters of defence arising since the commencement of this suit, and of which notice should be given within a time provided for in said stipulation, might be given in evidence on the trial, as if specially pleaded *puis darrien continuance;* and in pursuance of such stipulation further notice was given, within the specified time, in manner and form following, that is to say:

United States Circuit Court, Southern District of New York.

THE UNITED STATES
v.
JAMES COLLIER.

SIR,—Take notice, that under the stipulation in this cause, of 13th February, 1854, the defendant will give in evidence and previous the trial, that on the sixteenth day of September, A. D. 1853, George Law and John A. Collier, two of the sureties upon the official bonds of the said defendant, James Collier, paid to the United States, by depositing in the office of the assistant treasurer of the United States, at the City of New York, the sum of one hundred thousand dollars, which was accepted and received by the plaintiffs as payment upon the said official bonds, and was and is to be allowed and credited, and allowed upon the accounts of said James Collector, as Collector. $100,000 00

And that on the same day, the said John A. Collier, in like manner, paid and deposited the further sum of eighteen thousand five hundred and forty-six dollars, five cents. 18,546 05

Making in the aggregate the sum of one hundred eighteen thousand five hundred forty-six dollars, five cents.

$118,546 05

The whole of which was accepted and received by the plaintiffs, through the Treasury Department, as payment to that amount, and to be credited and allowed upon the accounts of the said James Collier, as collector, and which sum, as defendants will insist upon the trial, was more than sufficient to pay and satisfy all liabilities of the said defendant, or his supposed indebtedness to the United States.

And the said defendant will further give in evidence and prove, on the trial, that the said plaintiffs are justly indebted to the said James Collier, and he is entitled to be credited and allowed for the following sums and items, which have been duly presented at the Treasury Department, and there improperly disallowed and rejected, that is to say:

Amount charged by the said Collector in 1st quarter of 1851, as "Disbursements on account of seized Merchandise," forty-seven thousand three hundred and fifty-two dollars, thirty-three cents.	$47,352 33
Amount charged by him as his proportion of bonds taken for vessels and cargoes seized, which seizures were declared legal by the Secretary of the Treasury, being one half, twelve thousand and three hundred dollars.	12,300 00
Amount charged by him as his share of the penal duties collected and paid into the treasury, fourteen thousand dollars.	14,000 00
Amount charged and due to the said Collector for his commissions, being three per cent. on all his collections, sixty-three thousand two hundred and fifty dollars ninety-five cents.	63,250 95
Money stolen from deputy collector's office, Monterey, improperly charged to said James Collier, at Treasury Department, eight thousand one hundred and ten dollars twenty-nine cents.	8,110 29
Items of interest and estimated fees improperly charged to said Collector in the accounts of the Treasury Department, No. 14,164, amounting in the aggregate to eighty-eight thousand three hundred seventy eight dollars, fifty-three cents.	88,378 53
Making in the aggregate the sum of two hundred thirty-three thousand three hundred ninety-two dollars, ten cents.	$233,392 10

All of which ought to be credited and allowed to the said Collector, in addition to the said payments of $118,546 05, and deducted from his assumed indebtedness, and the balance to be allowed and certified in his favor.

Afterwards, to wit, at the term of the United States Circuit Court, in the Second Circuit, held at the City Hall, in the City of New York, on the first Monday of April, in the year 1854, came the parties aforesaid, by their respective attorneys, the said plaintiffs appearing by John McKeon, District Attorney of the United States, for the said Southern District of New York, and the jurors aforesaid being duly summoned, also came and were duly tried and sworn.

And after hearing the proofs and allegations of the parties, and the said cause and the issue so joined being submitted to the jury

aforesaid, the said jury returned to the said Circuit Court their special verdict, in manner and form following, that is to say:

And the jurors aforesaid, upon their oaths aforesaid, find:

That the said defendant, James Collier, was duly appointed Collector of the District of Upper California, on the third day of April, A. D., 1849, and on that day gave and executed his required official bonds with sureties, being the same bonds hereinafter mentioned in the Assistant Treasurer's receipt, which were duly approved and filed in the Treasury Department. And the said defendant also took and subscribed the required oath of office, which was duly filed.

And the said jury, upon their oaths aforesaid, further find, that the said defendant officiated as Collector, and discharged the duties of said office from the said third day of April, A. D., 1849, to the fourteenth day of January, one thousand eight hundred and fifty-one, and during that period collected and received for duties on imports and tonnage, as the same was estimated at the Treasury Department, and as the said jury find the fact to be, the sum of two millions one hundred and eight thousand three hundred and sixty-five dollars, of which sum, he, the said James Collier, received, after the passage of the joint resolution of Congress touching or relating to salaries in California and Oregon, adopted February 14, 1850, and before the Act creating additional Collection Districts in the State of California, passed September 28, 1850, the sum of one million twenty-seven thousand seven hundred and nineteen dollars and thirty-three cents, and after the passage of the last-mentioned Act, the sum of six hundred and twenty-five thousand six hundred and fifty-six dollars and twenty-seven cents.

That the account of the said defendant, in which he claimed to be credited and allowed as and for commissions upon the said aggregate amount collected and received by him as aforesaid, at the rate of three per cent., amounting to the sum of sixty-three thousand two hundred and fifty dollars and ninety-five cents, was, before the commencement of this suit, presented in due form at the Treasury Department by the said defendant, and was "disallowed" by that Department on the seventh day of March, 1853.

And whether the said defendant is by law entitled to the said commissions, or to any and what part thereof, and whether by law there is a limit or maximum allowance or compensation, and what is such maximum limit, if any, the said jury are ignorant, and submit the same to the court.

And the jurors aforesaid, upon their oaths aforesaid, further find, that according to a statement, made up in due form of law, at the Treasury Department, on the seventh day of March, 1853, in which no credit was given to the said James Collier for any compensation for his entire official term, except the sum of seventeen hundred and forty-five dollars and fifty-six cents, for salary as such Collector of Upper California, and in which no credit is given to him for any of

his claims for commissions or any commissions whatever, nor for a moiety or any part of the proceeds of seized and forfeited liquors, nor for a moiety or any part of the sums secured by bonds as hereinafter mentioned, or for the moiety of the additional or penal duties hereinafter mentioned, or for the moneys stolen, without default on his part, from the Deputy Collector at Monterey, nor for the payments to the Assistant Treasurer at New York, as hereinafter mentioned, and in which there is not included any charge against the said defendant for official emoluments, or any charge or credit or claim for interest, the said James Collier is debited the sum or balance of two hundred and sixteen thousand seven hundred and twelve dollars and forty-three cents.

And the jurors aforesaid, upon their oaths aforesaid, further find that the said James Collier was, at the date of the said last-mentioned statement, justly indebted to the United States, for moneys had and received by him to the use of the United States during the time he so officiated as Collector as aforesaid, in the amount of the said last-mentioned balance, to be charged against him in this action, with interest thereon, to be computed from such date and to such date as under the circumstances by the jurors aforesaid hereby found shall be fixed upon by the court, if it shall seem to the court that interest is by the law of the land chargeable against him thereon, *if, and provided*, any interest is by law so chargeable, and subject to a deduction of any credit, and all such credits, in favor of the said James Collier, as it shall seem to the court that the said James Collier is entitled to, on account of the claims of the said James Collier which have been disallowed at the Treasury Department, as by the jurors aforesaid hereby found.

And the jury aforesaid further upon their oaths find, that the said James Collier was credited by the Treasury Department in another stated account, of the 22d September, 1853, of said Treasury Department, against the said defendant, as such Collector, with the sum of thirty thousand eight hundred and thirty-one dollars and fifty-eight cents, as his commissions of three per cent. on the sum of one million twenty-seven thousand seven hundred and nineteen dollars and thirty-three cents, received after the passage of the said joint resolution of 14th February, 1850, and before the 28th of September, 1850, as hereinafter mentioned. And also the sum of two thousand five hundred and twenty-four dollars and eighty-three cents for his salary, at the rate of ten thousand dollars per year, after the twenty-eighth day of September, 1850, and on account of compensation the sum of thirteen hundred dollars, being part of what was then considered by the Treasury Department to be his maximum compensation as such Collector prior to the fourteenth of February, 1850, neither of which sums had been previously credited to the defendant at the Treasury Department, nor did any such credits appear in any of the previous statements of the said defendant's accounts.

And the said defendant was also credited in the said account of the 22d September, 1853, with the whole of the fees of his said office (not being commissions), and which, as his fees of office between the passage of said resolution of the 14th of February, 1850, and the passage of said act of 28th September, 1850, were erroneously estimated in the said account of the Treasury Department at twenty-nine thousand one hundred and five dollars and six cents.

And the jurors aforesaid, upon their oaths aforesaid, further find, that the said James Collier received, as such fees of office as such Collector (not being commissions as aforesaid), the following sums, to wit:

Between the date of his entering upon said office and the passage of said joint resolution, the sum of four thousand five hundred dollars. Between the passage of said joint resolution and the passage of said act of 28th of September, 1850, the sum of eleven thousand two hundred and fifty dollars.

And after the passage of the last-mentioned act, the sum of five thousand two hundred and fifty dollars.

But whether the said James Collier is entitled to receive and retain to his own use the whole or any and what part of the said official fees, the said jury are ignorant, and submit the same to the opinion and judgment of the Court.

And the jurors aforesaid, upon their oaths aforesaid, further find, that of the moneys so collected and received by the said James Collier, during his said official term, for duties on imports, the sum of twenty-eight thousand dollars was received for the additional or penal duties of twenty-eight per centum ad valorem, prescribed to be levied, collected, and paid, by the eighth section of the act reducing the duties on imports and for other purposes, passed July 30, 1846, one half of which sum the said James Collier claims of the United States, as such Collector, but for which he has received no credit, in any statement of his accounts, but the said claim having been duly presented to the Treasury Department, the same was "disallowed."

And whether the said James Collier is, as such Collector, entitled to the one-half or any portion of the said penal or additional duties, the jury are ignorant, and submit the same to the opinion and judgment of the Court.

And the jurors aforesaid, upon their oaths aforesaid, do further find, that during the period of the official term of said James Collier, as Collector of the District of Upper California, the said James Collier, as such Collector, seized the vessels and cargoes of the "Ocean," "Collooney," and "Lallah," for violations of the Revenue and Navigation Laws of the United States; and upon such seizure the owners or the parties in interest, claiming that the said vessels or cargoes were not liable to seizure and forfeiture for such supposed violation of the laws, thereupon gave and executed three several bonds with sureties for the value of the vessels and cargoes so seized

and claimed as forfeited by said Collector, with a condition or agreement attached to each of the bonds respectively, which, after reciting the seizures, provided and was conditioned as follows:

"Now it is agreed that the question as to the legality of the said seizure shall be submitted to the decision of the Secretary of the Treasury or the Solicitor thereof, and such decision to be final and conclusive in the premises. If the said Secretary or Solicitor shall determine that said seizure was valid, and rightfully made by the Collector aforesaid, then the said bond to be of full force and virtue," but otherwise to be void, &c.

And the said jury further find, that upon the execution of the said respective bonds, the several vessels and cargoes were released and delivered up by the said Collector to the respective owners. And the questions in relation to the legality of the said seizures respectively being thereupon submitted to the Secretary of the Treasury, that is to say, by the owners, in respect to two of said vessels, and by the said James Collier in respect to one of them, the said Secretary of the Treasury did determine and decide that the said seizures and every of them were legal, and the said bonds were therefore justly due.

That the said bonds were delivered by the said James Collier, on leaving office as aforesaid, into the Treasury Department of the United States, and have not been collected, nor have any proceedings been had or attempted by the Treasury Department, or by the United States, for the purpose of collecting the same.

And the jurors aforesaid, upon their oaths aforesaid, further find that the said seizures of the said vessels were made under such circumstances, that in case the same had been followed up by judicial proceedings, under and by virtue of the Act entitled "An Act to regulate the Collection of Duties on Imports and Tonnage," passed 2d March, 1799, the said vessels would have been forfeited to the United States; and the net proceeds of such forfeitures, after deducting all proper costs and charges, would have amounted to the said sum of twenty-four thousand six hundred dollars, and one moiety thereof, under and by virtue of the ninety-first section of the said last-mentioned Act, would have been payable to the said James Collier, as Collector, as aforesaid, for his own use, and to be credited to him as of the day when he ceased to act as such Collector as aforesaid.

That the said James Collier duly presented his account to the Treasury Department, claiming the one-half of said bonds, but the said account was "disallowed" by said Department.

But whether the said James Collier, upon the facts aforesaid, is by law entitled to a credit in this action to the one-half of said bonds (none of the same having been as yet collected), the said jury are ignorant, and submit the same to the opinion and judgment of the said Court.

And the jurors aforesaid, upon their oaths aforesaid, further find,

that the said James Collier, as such Collector as aforesaid, during his said official service, seized as forfeited to the United States, numerous parcels of liquors, each of which had been illegally imported into the District of Upper California, contrary to the "Revenue Laws" of the United States.

That it being impracticable, without an expenditure which would have consumed the whole value thereof, in costs and expenses, to institute any regular judicial proceedings, touching any such last-mentioned forfeitures, and prosecute the same to a decree or condemnation, and the said James Collier, after obtaining in each instance, such a certificate as is hereinafter next mentioned, caused the said seized and forfeited liquors to be sold. That the proceeds of such sales amounted to ninety-four thousand seven hundred and four dollars and sixty-six cents.

That the costs and expenses of storing, preserving, and selling said seized and forfeited liquors, amount to twenty-four thousand eight hundred and seventy-three dollars and eighty cents, and that the net proceeds of said forfeited liquors which came to the hands of the said James Collier, amounted to sixty-nine thousand eight hundred and thirty dollars and eighty-six cents, the whole of which net proceeds is charged to the said James Collier at the Treasury Department, and is included as a debit in the said statement of 7th March, 1853, in which the said balance is claimed and stated against the said James Collier, of two hundred and sixteen thousand seven hundred and twelve dollars and forty-three cents, and in each of the statements of his accounts from said Treasury Department.

And the said jurors further find, that the said James Collier, in each of said cases of a seizure of liquors, obtained from the owner, or from the carrier-ship master, or consignee, or other most accessible person acting as agent for the respective owners in the importation of the said liquors, or having the charge or custody thereof, for the owners, a certificate in one or other of the forms shown by the specimens thereof, contained in the following Schedule, that is to say:

(Copy.)

Know all men by these presents, that whereas J. Collier, as Collector of Customs for the District of Upper California, has seized, as forfeited, forty baskets of gin, and 26 barrels of porter, of four dozen each, *marked* T. B., for being in packages of less than fifteen gallons, imported in the Bark "Serene," from Buenos Ayres, now lying at anchor in the Bay of San Francisco.

This is to witness that the legal questions as to the validity of the seizure aforesaid, and the forfeiture of said goods so seized, shall be left to the decision of the Secretary of the Treasury, or the Solicitor thereof, and such decision to be final and conclusive.

Should the said Secretary or Solicitor aforesaid, determine the

said gin and porter are liable to seizure, then and in that case the aforesaid goods is to be sold by the Collector at public auction for the benefit of the United States, as provided by law, and Thomas Balcarce, the owner thereof, to release all right and title in law or equity, the same. In witness whereof I set my hand and this thirty day of November, 1849.

THOMAS G. BALCARCE,
F. LAISSEIZ.

(Copy.)

SAN FRANCISCO, December 10th, 1849.

J. Collier, Esq.,
Collector Port San Francisco.

Dear Sir,—In behalf of the owners of the following property, consigned to us, per British Brig Giraffe, Capt. Robinson, from Sidney, New South Wales, namely,

56	casks	bottle	beer,	Lentos	brand,	3	doz.	each.
14	"	"	porter,	"	"	"	"	
9	"	"	ale,	"	"	"	"	
286	"	"	"	Marzetz,	"	"	"	
25	"	"	"	"	"	4	doz.	each.
31	"	"	porter,	"	"	"	"	
29	"	"	"	"	"	8	"	"

450 casks in all.

Also 47 casks British gin, being in packages contrary to the provisions of the Tariff, and having been taken possession of by your order as confiscated. We would request that you would consent to allow the same to be sold at public auction, on Wednesday the 19th of December, 1849, by Messrs. Robertson & Walton, at our warehouse, in the rear of our premises, Montgomery Street, by sample, proceeds of course to be held by you, in trust, for the decision of the Secretary of the Treasury, or the action of Congress upon any memorial that may be presented relating to such interest.

The objects of this measure is to prevent the proceeds of the property in question being wasted, or consumed with expenses before any decision can be had, and it is agreed by us, as agents for the owners, that we waive any legal measures in consideration of your granting this privilege. We also understand that you will represent to the Department at Washington, that the packages are original as received in Sidney, from London, and that the American Consul resident at that port did not apprise the shippers of the fact that such packages were not in contravention of the Tariff; also, that similar packages had been allowed entry by several vessels from Sidney, prior to your entering upon the *duties* of your office.

Yours very faithfully,
GEORGE S. WEDDLE & Co.
per W. R. WADSWORTH.

(Copy.)

SAN FRANCISCO, November 27th, 1849.

Sir,—We beg leave to bring under your notice the following particulars of goods, which have arrived at this port in vessels to our consignment, and which have been either already seized or are at this moment liable to seizure on account of their having been imported in illegal packages.

Br. Bque "Secret,"	J. S. & C.	49	boxes	pale Cognac,	49 doz.
	"	72	"	Martel brandy,	100 "
	"	100	"	gin,	100 "
Brem. Sch. "Athen,"	L. P.	$\frac{1}{200}$ 200	boxes	Geneva,	200 "
	C. J.	$\frac{1}{50}$ 50	"	"	50
	E. O. P.	$\frac{173}{272}$ 100	"	"	100 "
Br. Bque "Chance,"	L. F.	25	cases	brandy,	25 "
Brem. or Hamburg.					
Bque "America,"	S.	$\frac{1}{300}$ 300	boxes	Geneva,	300 "
and some quarter casks of Geneva.					

With respect to the 121 boxes of brandy and the 100 boxes of gin, seized on board of the "Secret," and now in public store, we venture to hope that you will reconsider the case, and permit the same to be entered for duty, they having been imported a considerable time previous to the late prohibition, and several separate parcels of the same nature and in the very same invoice, having been already entered and admitted to duty.

The Bremen schooner "Athen," having also arrived here previous to the recent order, we hope that in her case, also, you will permit the entry of the 350 boxes of gin now under seizure.

With reference to the several packages of spirits liable to seizure on board the British barque "Chance," and Hamburg or Bremen barque "America," both arrived in this port within the last two days, we request your permission to offer the same for sale immediately, depositing the proceeds of such sale in your hands, to await the decision of the Secretary of the Treasury on the subject, as by this course only can be avoided the enormous expense for store rent which would be entailed on the goods, if it is required that they should remain in public store until the question is decided by the Government at Washington.

We also have to request, that you will be good enough to inform us whether it is your intention to communicate with the Secretary of the Treasury on the above question, or whether it is to be left to each individual merchant to represent his own case.

We have the honor to be, sir, your most obedient servants,

STARKY JUNIORS & CO.

(Copy.)

SAN FRANCISCO, 8th July, 1850.

James Collier, Esq., Collector of the Customs, San Francisco.

Sir,—Having received to my consignment, per the following vessels:

542 boxes Cognac brandy, per French ship Alcibiade, Capt. Erable.
1500 do. do. do. do. barque Bocher de St. Malo, Capt. Gaignoux.
400 do. do. do. do. ship Vaillant, Capt. Aurian.

2442 boxes.

Together, two thousand four hundred and forty-two boxes, of 12 bottles each, French Cognac brandy.

Said Cognac was surrendered to the Custom-house of San Francisco, in consequence of a violation of the laws of the United States of America, as per your decision. As consignee of said goods, I beg your honor will order a certificate to be given me of the above-mentioned seizure for the use of those interested.

I have the honor to be, sir,

Your obedient, humble servant,

(Signed) T. GARDET.

(Copy.)

SAN FRANCISCO, U. C., June 17, 1850.

To Colonel Collier, Collector of the Customs, San Francisco, of Upper California.

SIR:—The undersigned has the honor to recall to your recollection the fact, that on the arrival of the French ship "Vaillant," Captain Aurian, consigned to him, the cargo was declared for San Francisco and a market.

The undersigned has since, on several occasions, requested leave to re-export four hundred cases of Cognac brandy, forming part of the said cargo of the "Vaillant."

Should you still consider it your duty to refuse to allow the re-exportation of these brandies, he at least hopes that, awaiting the result of the claim instituted by the proprietors of these goods for the restitution of the same, you will see no objection to their immediate sale at public auction, deliverable to the purchasers at the ship tackles, a measure which will save the owners the great expenses attending landing and storage, and one which has already been found expedient in the cases of the French ship Java and Alcibiade.

Should you see fit to refuse this latter request, the undersigned has furthermore only to declare his readiness to cause the immediate delivery of the said brandies to your order, contenting himself with

protesting, and by the present he does protest, against a proceeding calculated to seriously injure the interests of the parties concerned.

Requesting the favor of an answer,

I subscribe myself, sir, respectfully,

Your most obedient servant,

T. GARDET.

(Copy.)

SAN FRANCISCO, April 25, 1850.

James Collier, Esq., Collector.

Dear Sir:—Finding I have imported a quantity of beer in the ship Tarolinta from Shanghai, which it appears is a contraband article, also making the ship liable for seizure, I have to request that you will adopt such measures as may least do injury to the owners. I have to state, that I am ready and willing, should it meet with your kind approbation, to release all right and interest in the same to you, if the ship can be released.

Hoping that you may be able to place the matter in a favorable light for the parties interested,

I remain your obedient servant,

GRISWOLD.

(Copy.)

SAN FRANCISCO, March 13, 1851.

Col. J. Collier, Collector of the Customs, San Francisco.

Dear Sir:—I hereby abandon to the Custom-house of this port the following goods, imported by me in illegal packages on board the Hamb. schooner "Carolina and Johanna."

17 barrels of beer.
3 casks ale and porter.
37 cases brandy.
169 cases gin.
37 demijohns gin.

And hereby forfeit all right and claim to the above, at present and for the future.

I am, respectfully,

CHR. CHRISTIANS,
For Scherl & Co., owners of the above goods.

(Copy.)

To the Collector of the Port of San Francisco.

The following goods are very much in my way, and I hope the Collector of the Port will have the kindness to take charge of the same, and oblige.

viz.: [P] 4 cases brandy.
FOP 300 " gin.

[GI] 20 jars oil.
SHPC 1 cask hardware.
1 bag rice.

Yours, truly,

EDWARD HEEREN,
Master of Bremen ship Athens.

Nov. 20, 1849.

(Copy.)

SAN FRANCISCO, March 25, 1850.

The undersigned, consignees and agents of the schooner Hopewell, of New Orleans, hereby abandon all claim to one hundred and thirty demijohns of gin and thirty cases of brandy, imported in said vessel, and seized by Capt. Alex. V. Fraser, of the U. S. revenue brig Lawrence; and we do hereby authorize the Collector of the Customs of this district to dispose of said liquors for the benefit of all concerned, in order to avoid further charges and litigation.

MACOUDRAY & CO.

(Copy.)

SAN FRANCISCO, Sept. 25, 1850.

J. Collier, Esq.

Sir:—We beg to inform you, as consignee of 350 cases and 20 quarter casks gin, also 10 cases brandy, now on board of the schooner "Hord," in this port, that we wish to surrender them to the Custom-house, and hereby relinquish all further claim to them.

Your most obedient servants,

GERTH, DUNCKER, BOTTCHER & CO.

J. Collier, Esq, Collector of the Port of San Francisco.

(Copy.)

SAN FRANCISCO, June 11, 1850.

To the Collector of Customs, Port of San Francisco.

Sir:—In the "Ralph Bernal," lately arrived from Sydney, there are the following cases containing brandy and gin:

$$\begin{cases} \text{H } \frac{7}{25} \frac{101}{195} \text{ 120 half cases Geneva,} \\ 75 \text{ R } 82 \frac{26}{75} \text{ 50 cases brandy,} \end{cases}$$

consigned to me. Now, as the same are in illegal packages and contrary to law, I hereby agree to surrender them unconditionally to the officers of the Customs appointed to receive the same.

I have the honor to remain,

Your most obedient servant,

(Signed) O. B. ELSWORTH.

SAN FRANCISCO, May 2, 1850.

To the Collector of Customs, San Francisco.

Sir:—We beg leave to inform you that 39 cases brandy, marked

H. B. & K. G., 1 dozen, have arrived per ship "Thomas," —— Hedley, to our consignment, the same being in illicit packages, but were shipped under the impression that such packages were in conformity with the customs regulations here, we abandon the said cases of brandy, and

Remain, sir, your obedient servants,

HART BROTHERS.

(Copy.)

SAN FRANCISCO, August 8, 1850.

Col. Collier, Collector of Customs.

Sir:—As agent *ad interim* for Mr. John Beck, I hereby beg to notify you that I surrender unto the United States of America the following, imported per British "Agincourt," from Pt. Adelaide, in contravention with the revenue laws of the United States of America.

(J) $\frac{1}{6}$ 6 hhds gin under 90 gallons ea.

— $\frac{7}{10}$ 4 qr. casks gin under 90 gallons ea.

I remain, dear sir, very respectfully,

(Signed) J. B. MONTEFIORE.

(Copy.)

SAN FRANCISCO, August 10th, 1850.

J. Collier, Esq.

Sir,—We beg leave to inform you that we, as consignees, wish to surrender to *the* Custom House, 365 cases brandy, on board of the Br. ship "John Calvin," now in this port, and hereby relinquish all claim to them.

Your most obedient servant,

GERTH, DUNCKER BROTHER & CO.,
GEO. AUSTIN WORN.

J. Collier, Esq., Collector of the Port of San Francisco.

(Copy.)

SAN FRANCISCO, October 18, 1850.

J. Collier, Esq., Collector of the Customs, Port of San Francisco.

Sir,—Our advices this morning per Bark Merlin, from Manilla, informs us of the shipment to our address per said vessel of

GG 148 cases brandy, each 1 dozen.
AA 24 " " " 1 dozen.

which, as contraband goods, we hereby abandon to your control.

Respectfully, your obedient servants,

(Signed) EVERETT & CO.

(Copy.)

SAN FRANCISCO, May 11th, 1850.

Col. Jas. Collier, Collector at San Francisco.

Dear Sir,—We have received in the cargo of the Ship Wodan,

from Canton, six hundred baskets of Cognac Brandy, marked D & A, which was not shipped with any intention of defrauding the revenue; but for want of knowledge of the law, and which we hereby surrender, to save further difficulty in regard to ship and cargo.

Very respectfully,
DALL & AUSTIN.

D & A 600 baskets, ½ doz. Cognac Brandy.

And the jurors aforesaid, upon their oaths aforesaid, further find, that the said James Collier gave credit to the United States, in his periodical official returns to the Treasury, for the gross sums so received, as the proceeds of the said liquors, on each of such sales, which are carried into his said account, and form part of the said stated balance claimed in said account of the Treasury Department of 7th March, 1853, and each of said accounts as aforesaid. That the said James Collier charged the said costs and expenses, and returned the appropriate vouchers to the Treasury Department, to which returns no objection was made by the Treasury Department at any time during his entire official term.

That the said James Collier duly presented his account or claim to the said Treasury Department, for one moiety of said proceeds, the whole of which was "disallowed" by the said Treasury Department, nor has any part of said Collector's share, or any part of said net proceeds, been credited or allowed by the said Department to the said James Collier.

That the said seizures of the said liquors were made under such circumstances, that in case the same had been followed up by due judicial proceedings, under and by virtue of the Act of 2d March, 1799, entitled "An Act to regulate the collection of duties on Imports and Tonnage," the said liquors would have been forfeited to the United States, and the net proceeds of such forfeitures, after deducting all proper costs and charges, would have amounted to said sum of sixty-nine thousand eight hundred and thirty dollars and eighty-six cents; and one moiety, being the sum of thirty-four thousand nine hundred and fifteen dollars and forty-three cents, would, under and by virtue of the ninety-first section of the same last-mentioned Act, have been payable to the said James Collier, as Collector, as aforesaid, for his own use, and ought to be credited to him, as of the day when he ceased to act as such Collector as aforesaid.

And the jurors aforesaid, upon their oaths aforesaid, further find, that during the said official term of said James Collier, there was in the said District of Upper California, or State of California, no naval officer, surveyor of the port, or other officer of the customs, than the said James Collier, entitled to receive any portion or share of forfeitures.

And the jury aforesaid, upon their oaths aforesaid, further find, that on the 26th day of July, 1849, the Secretary of the Treasury issued and sent to the Collectors and other Officers of the Customs, a circular, calling their attention to the provisions of the 103d section of the Act of 2d March, 1799; and the Act of 2d March, 1827, as to the illegal importation of liquors, in casks of less than the prescribed capacity of not less than fifteen gallons, and adds, that the importation in casks of less capacity subjected the liquors, together with the ship and cargo, to forfeiture, and requiring that the prohibitory provisions of the Act should be strictly enforced.

And they further find that an application having been made to the Secretary of the Treasury to remit certain forfeitures arising from the importation of seized liquors in casks of a capacity forbidden by law, wrote to the said Collector on the 15th of January, 1850, in reference to such cases as follows:

"In reference to these and similar cases I have to state, that the Department has no power to afford relief by the remission of penalties incurred by infractions of revenue laws, except as conferred by the mitigating and remitting law of 3d March, 1797, in cases presented in the mode prescribed by that law, having undergone the summary judicial examination therein provided. Your attention is particularly called to the provisions of that law, and you will perceive, that upon the report of the Judge of the proper District Court, after his examination of the case, on the petition of the applicant, this Department has the power to remit, provided, in his opinion, the penalty or forfeiture has been incurred without wilful negligence or any intention of fraud."

And the jury aforesaid find, that in a note from the Minister Plenipotentiary of France to the Secretary of State, dated 21st March, 1850, presenting to that Department certain of the said cases of seizure of liquors, imported in French vessels, by the said Collector, James Collier, it was stated, among other things, that "the Collector of San Francisco, limiting himself to the strict execution of the instructions which he had received from the Federal Government," had seized on board certain French ships the brandies which formed the whole or a part of the cargo, on the ground that those liquors were in casks containing less than the minimum quantity fixed by the regulations, and that these vigorous measures appear to have been taken in consequence of the recommendations addressed to the collectors and officers of the American Custom-houses, by the Secretary of the Treasury of the United States, in a circular dated the 16th of July, 1849, and adding further, as follows: "Undoubtedly, sir, neither the Government nor merchants of France could raise any objection to the above-mentioned decision of the American administration, if it had been applied and enforced only in the ports of the Union, or if, with the view of extending it to California, the Federal Government had delayed its execution for a reasonable time."

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That the said James Collier duly presented his account or claim to the said Treasury Department, for one moiety of said proceeds, the whole of which was "disallowed" by the said Treasury Department, nor has any part of said Collector's share, or any part of said net proceeds, been credited or allowed by the said Department to the said James Collier.

That the said seizures of the said liquors were made under such circumstances, that in case the same had been followed up by due judicial proceedings, under and by virtue of the Act of 2d March, 1799, entitled "An Act to regulate the collection of duties on Imports and Tonnage," the said liquors would have been forfeited to the United States, and the net proceeds of such forfeitures, after deducting all proper costs and charges, would have amounted to said sum of sixty-nine thousand eight hundred and thirty dollars and eighty-six cents; and one moiety, being the sum of thirty-four thousand nine hundred and fifteen dollars and forty-three cents, would, under and by virtue of the ninety-first section of the same last-mentioned Act, have been payable to the said James Collier, as Collector, as aforesaid, for his own use, and ought to be credited to him, as of the day when he ceased to act as such Collector as aforesaid.

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That the said communication being referred by the Secretary of State to the Secretary of the Treasury, he answers, by letter of 25th March, 1850, to the Secretary of State, among other things, as follows:

"In regard to the seizures mentioned for violation of the 103d Section of the General Collection Act of 2d March, 1799, prohibiting the importation of distilled spirits, except in casks or vessels of prescribed capacity, it is to be observed, that this law has been uniformly enforced, and as the Act of Congress, extending the Revenue Laws over California, was passed on the 3d of March last, and the act of the Collector now referred to, occurred in the November following, it is conceived that no reasonable ground of a want of notice of the extension of the Revenue Laws over California can be taken by foreign shippers."

"It has been and is the usage of the Department to remit forfeitures incurred for violations of the 103d section of the law before referred to, in all cases of a bona fide nature, and in the absence of any intention to violate the law, and on being advised of seizures made under this law by the Collector of San Francisco, I instructed that officer, under the date of the 15th of January last, and indicated the proper course to be pursued by parties whose property had been seized, to bring their cases up in conformity with law, to enable the Department to exercise its remitting powers. So far as anything is known of the cases referred to, they will probably fall within the usage of the Department above mentioned, and the penalties be remitted without difficulty."

And the jurors aforesaid, on their oaths aforesaid, further find, that after the commencement of this suit, and after the said statement of the account of the said James Collier, of the 7th March, 1853, the Secretary of the Treasury, assuming to act under the first branch of the fourth section of the said act of 28th September, 1850, received in due form, but without any preliminary petition to or proceeding before a judge, applications on behalf of persons claiming to be owners of the said several parcels of seized liquors for remission of the said respective forfeitures.

That the said Secretary of the Treasury upon such applications, made allowances to such applicants, not as and for the proceeds of said sales, but as and for the cost or value of such liquors, before their importation, with interest at the rate of six per cent., amounting in the aggregate to forty-one thousand six hundred and eighteen dollars and twenty-nine cents.

That of such last-mentioned allowances, there was paid at the Treasury Department, assumed to be under the said fourth section of the said last-mentioned act, the sum of twenty-three thousand four hundred and sixty-eight dollars and one cent, the residue so awarded not being yet paid, and amounting to the sum of eighteen thousand one hundred and fifty dollars and twenty-eight cents.

And the said jurors further, upon their oaths aforesaid, find, that at and previous to the time of such applications, or either of them, the said James Collier had retained to his own use the whole amount of the moiety or share of the said net proceeds, which he claimed and still claims, nor was any portion of such share, as such Collector, paid into the Treasury.

But whether the said allowances to such owners of said seized liquors, or any, and what portion of them, ought by law to be deducted from the said James Collier's share or moiety of the net proceeds of the said seized and forfeited liquors, if any such share he is entitled to have credited to him as such Collector, the jury are ignorant, and they submit the same to the decision and judgment of the Court aforesaid.

And the said jurors, upon their oaths, aforesaid, further find: that the said James Collier, in rendering his said periodical account, charged himself with the sum of eight thousand one hundred and ten dollars and twenty-nine cents (as a part of a larger amount, in which that sum was included), received, to the use of the United States, by the Deputy Collector, at Monterey, in California, which sum forms a part of the debits claimed against him by the United States, and is included in each of the several statements of his accounts made up, as herein stated, at the said Treasury Department.

That the said sum of eight thousand one hundred and ten dollars and twenty-nine cents was stolen from the said Deputy Collector's office, at Monterey, in December, 1850, without neglect or default on his part, or on the part of the said James Collier; and the said moneys never came to the possession of said James Collier, nor any part thereof.

That the said James Collier, in the same account in which he returned the whole moneys received, to the use of the United States, by the Deputy Collector at Monterey (including the said sum of $8110 29), as a charge against himself, claimed a credit "per contra," against the United States, for the said eight thousand one hundred and ten dollars, twenty-nine cents, as and for the amount so stolen from the said Deputy Collector's office at Monterey.

That no part of said sum last mentioned, was credited to the said James Collier, in either of the said statements of his accounts, and the account of James Collier, claiming such credit, was duly presented to the Treasury Department to be credited; but the same was there "disallowed."

And whether the said James Collier is, by law, liable to be debited, for the said stolen money, in favor of the United States, or is bound to pay the same, the said jurors are ignorant, and submit the same to the said Court for their opinion and judgment thereon.

And the said jurors, upon their oaths aforesaid, further find:

That the Treasury Department made up and stated, made up in

due form of law (delivering copies to said James Collier), the accounts of the said James Collier, five several times, to wit:

First, Upon the 7th of June, 1851, in which they stated and claimed a balance of $791,065 31

Secondly, On the 24th September, 1851, in which they stated and claimed a balance of $789,925 35

Thirdly, On the 26th December, 1851, in which they stated and claimed a balance of $750,933 80

Fourthly, On the 7th March, 1853, in which the Commissioner of Customs made up and stated the balance, as aforesaid, at $216,712 43

Notwithstanding that, in the same statement, the Auditor credited and allowed to the said James Collier one-half of the net proceeds of the said seized and forfeited liquors, to wit, $34,915 43, and, consequently, stated the balance at $181,797 00

And, fifthly, on the 22d September, 1853, in which a balance is claimed of $241,320 47

That each of said five several balances, as thus stated (not including such sum stated by the Auditor, as aforesaid), the said James Collier, by letter from the Treasury Department, accompanying the said several statement of accounts, was required to pay, or deposit with an Assistant Treasurer of the United States.

That the said account of 22d September, 1853, contained no credit for the sum of one hundred and eighteen thousand five hundred and forty six dollars and five cents, paid on the sixteenth of September, 1853, as hereinafter stated.

And the jurors aforesaid, upon their oaths aforesaid, further find, that the balance stated as due from him, the said James Collier, to the United States, in each of the said five accounts, was not due, a less amount, if anything, being in fact due.

That none of the said accounts, except the last, contained any charges or claim for interest.

And they further find, that in and by the said last-mentioned stated account, the debit items claimed and stated against the said James Collier, are as follows:

"To balance of his account, per Report No. 13,387 (being the same account of 7 March, 1853), . $216,712 43

Estimated amount of fees, received by him from 12th November, 1849, to 13th February, 1850, at $3,898 per month, 3 and 2-30th months, . . . $11,953 86

Ditto, ditto, from the 14th February to 27th September, 1850 (7 14-30 months), at same rate, . . $29,105 06

Ditto, ditto, from 28th September, 1850, to 14th January, 1851 (3 18-30 months), at same rate, . $14,032 80

Interest, at 6 per cent. per annum, from 15th January, 1851, to 14th September, 1853, 2 years and 8 months, on $208,042 66; the balance due on said 15th January, 1851, and not accounted for on the 14th September, 1853, ...		$33,286 81
And, in the same account, it is certified, that the said Collier is entitled to the following credits, viz.:		
By maximum compensation allowed, per order of the Secretary of the Treasury, from 3d April, 1849, to 13th February, 1850, at the rate of $3000 per annum, ...	$2,600 00	
Less salary, heretofore credited to him, during said period, at $1500, . .	1,300 00	
		$1,300 00
Amount allowed him, for compensation, from 14th February to 27th September, 1850, viz.:		
Fees, per contra, ...	$29,105 06	
Commissions on collections, . .	30,831 58	
		$59,936 64
Salary, from 28th September, 1850, to 14th January, 1851, at $10,000 per annum, under act of 28th September, 1850, ...	$2,970 41	
Less salary, heretofore credited to him, for said period, at $1500 per annum,	445 56	
		$2,524 85
And that the balance due the United States on the 15th of September, 1853, amounted to		$241,329 47

Treasury Department, Office of Commissioner of Customs, September 22d, 1853.

Admitted and certified.

H. J. ANDERSON,
Commissioner of Customs.

And the jurors aforesaid further find, that there is no credit or allowance to the said James Collier for salary, under the said Act of 28th September, 1850, in either of the said stated accounts, except in the account of 22d September, 1853, as last mentioned; and that in all said previous accounts the said James Collier is credited his salary only, at the rate of fifteen hundred dollars per annum. But whether the said defendant is by law entitled to the said salary of fifteen hundred dollars per year, and the whole commissions, and the whole of his fees of office, without any maximum limit, or what such maximum limit is; or whether, if the said James Collier is entitled to

the salary or salaries given and fixed by the said Act of 28th September, 1850, his salary or compensation is to be the salary for the Collector of the District of San Francisco alone, or whether the aggregate salaries for all of the said six districts, the duty of Collector for the whole of Upper California, and for the State of California, the said defendant, as the jury find, did in substance continue to perform after the passage of said Act, and up to the said fourteenth day of January, 1851, or what by law is the rate or measure of his compensation, the said jury are ignorant, and they submit the same to the decision and judgment of the said Court.

And the jury aforesaid, upon their oaths aforesaid, further find, that on the said fourteenth day of January, 1851, Thomas Butler King, having been duly appointed Collector of the District of San Francisco, under the said Act of 28th September, 1850, arrived at San Francisco aforesaid, and assumed the duties of the said office of Collector for that district, and the said James Collier then henceforth ceased from the performance of any official duties as Collector within the said State of California.

And the jurors aforesaid, upon their oaths aforesaid, further find, that neither the said James Collier, or any other person in California, had any knowledge or notice, or means of learning, that said last-mentioned Act had been passed, until the said fourteenth day of January, 1851.

And the jurors aforesaid, upon their oaths aforesaid, further find, that the said several statements of the accounts from the Treasury Department, were founded upon the same accounts, no payments having been made into the Treasury by the said James Collier, since the first stated account of seventh of June, 1851, nor at any time after he left and surrendered the said office in California, on the 14th day of January, 1851, unless it be the payment of the 16th September, 1853, to the Assistant Treasurer of New York, hereinafter mentioned.

And the jurors aforesaid, upon their oaths aforesaid, do further find, that on the said fourteenth day of January, one thousand eight hundred and fifty-one, after the receipt by the said James Collier of the moneys by him so as aforesaid received, the said James Collier was required by the Treasury Department, by an order in writing, in that behalf then and there served upon him, to pay over to the said Thomas Butler King, as such Collector as aforesaid, all the moneys belonging to the United States in his possession, and that thereupon the said James Collier paid into the hands of the said Thomas Butler King, accordingly, the sum of eight hundred and ninety-three thousand, seven hundred and five dollars, fifty-three cents, which was credited to the said James Collier, in each of the aforesaid statements of his accounts, and is not included in any of the aforesaid balances so stated against him, but the said James Collier then and there neglected to make at that time any further compliance with said last-mentioned order.

And the jurors aforesaid, further find, that the said James Collier, in rendering his account to the Treasury Department, at the close of his said official term, from his last previous quarterly account up to and including the said fourteenth day of January, 1851, charged therein to the United States the sum of one hundred and sixty-three thousand five hundred dollars; which was, according to such account of said James Collier, the full amount of money still in his hands after the said payment to the said Thomas Butler King, and which the said James Collier claimed the right to retain, and therefore credited to himself in that account, and for which he returned to the Treasury Department, with such account, his own receipt as a voucher under the head of his credits in that account for contingent expenses, such credit being in the following words: "For indemnity for suits now pending, claims and reclamations for goods seized and sold on account of the United States, and for commissions on money received and disbursed for the United States, $163,500."

And the jurors aforesaid further find, that in the said account of the Treasury Department of 7th June, 1851, herein mentioned, the said item of $163,500, and the whole thereof, was disallowed at the Treasury Department, in the following terms: "Disallowed, no account of fees, &c., received by the late Collector, nor any amount of official emoluments has been rendered."

And the jury aforesaid further find, that the said James Collier returned from San Francisco, reaching New York on the 16th of April, 1851, and proceeded directly to Washington, to settle his account at the Treasury Department before going home, he residing then at Steubenville, Ohio, where he had left his family when he went to California.

That the Secretary of the Treasury told him on reaching Washington, to leave his papers and go home, and return again. The said James Collier accordingly did so; returning to Washington in the month of June following, where he remained two weeks, in daily intercourse with the Treasury Department, for the purpose of settling his accounts. That the said James Collier was informed at the Treasury Department on his arrival, that they were engaged in making up his accounts.

The said James Collier went again to Washington on the same business in September, 1851, at which time the Secretary of the Treasury informed said James Collier, that he was then going to Ohio, and if the said James Collier should find difficulty about his accounts, to wait until the said Secretary should return. That said James Collier remained in Washington, endeavoring to settle his said accounts, at the visit last mentioned, for about six weeks, and did not leave till December, 1851. That on his return home, in December, 1851, he found that suits against his sureties had been commenced by the United States, on his official bonds, and process was in the hands of the Marshal against himself awaiting his return,

and which was thereupon served, in which the United States claimed to recover the said balance of $791,065 31.

And the jury aforesaid further find, that the said Treasury Department did not pass upon the said James Collier's account and claim for commissions and other items presented by him, and for which he claimed to be allowed and credited out of the said sum of $163,500, until the 26th day of December, 1851, when the principal part of said account or claim was disallowed.

That by a letter from the Treasury Department to said James Collier, of 26th November, 1851, the Commissioner of Customs says in relation to the said item: "Receipted by you on the 11th January last, for indemnity for suits now pending for liabilities, claims and reclamations for goods seized and sold on account of the United States, and for commissions on moneys received and disbursed for the United States, amounting to $163,500.

I would call your attention to the first section of the Act of 3d March, 1849, requiring all moneys receivable from customs, and other sources, to be paid immediately into the treasury without abatement or reduction, I would, therefore, request that you deposit the said sum with the Treasurer of the United States at Washington. I will remark, that no account of official fees, received by you, has been forwarded by you to this office, conformably to law. I will now add, that in all cases, where moneys have been paid into the treasury, by officers of the customs, which by judicial decisions have been declared to have been illegally exacted, and in consequence thereof, judgments have been rendered against such officers, this Department has paid such judgments and costs, and will continue to do so.

No account of official emoluments has been rendered by you, as is required by law. Whenever such an account is presented, the subject of your compensation will be liberally treated under the authority of recent Acts of Congress."

And the jury aforesaid, upon their oaths aforesaid, further find, that the said James Collier went again to Washington, for the purpose of settling his said accounts in February, 1853.

That after some weeks were spent there at the Treasury Department, and after the balance was informally stated by the chief clerk in the Auditor's office, between said James Collier and the United States, in which the commissions claimed by the defendant, and the moiety of the nett proceeds of said liquors were allowed, and the balance appeared to be and was made at $118,546 05, as shown therein, the said James Collier then stated and offered, that if said informal statement should be passed and approved, he would at once pay into the treasury the said sum of $118,546 05.

That an interview was afterwards and before the 7th of March, 1853, had between the acting Commissioner of Customs and the chief clerk in the Auditor's office, and John A. Collier, the brother, and Edwin D. Collier, son of said James Collier, who were acting in

behalf of said James Collier: that said informal statement of said chief clerk of the first Auditor's office was then produced; that after the said statement was thus produced, the said acting Commissioner of Customs assented to the correctness of the said informal statement, but refused finally to pass and approve it, without the previous assent of the Secretary of the Treasury, because the accounts had been in controversy between the previous Commissioner and the defendant. But the Secretary of the Treasury rejected the charge for said commissions, and the item for the share of seized liquors, and it finally resulted in the said formal statement of the account of 7th March, 1853.

And the jury aforesaid further find, that in the said stated account of the Treasury Department of 7th March, 1853, there were credits of items and claims of said James Collier against the United States, which up to that time had been disallowed, to the amount of five hundred and thirty-four thousand two hundred and twenty-one dollars thirty-seven cents, but still leaving and claiming the balance against said James Collier in favor of the United States of $216,712 43.

And the jurors aforesaid, upon their oaths aforesaid, further find, that on the 12th day of September, 1853, the Secretary of the Treasury addressed a letter to the Assistant Treasurer of the United States, in the City of New York, of which a copy or duplicate was furnished by the said Secretary of the Treasury to John A. Collier, the surety, and the attorney and counsel of said James Collier, of which the following is a copy:

"TREASURY DEPARTMENT, September 12th, 1853.

SIR:—A proposition has been made to this Department, the sureties on behalf of James Collier, late Collector of California, to make a deposit with you, by way of present payment on account of the balance due by him.

The said payment may be as follows: viz. .		$216,712 43
as adjusted by the Commissioner of the Revenue,		
Less. 1st, Fines, penalties and forfeitures, . as stated by the Auditor, .		$34,915 43
And 2d, Commissions on his collections, . .		63,250 95
making of principal to be deposited, .	$118,546 05	
Interest from 14th January 1851, to 13th September 1853, two years, . and eight months, at 6 per cent., .	18,967 37	
	$137,513 42	

And leaving the two items deducted, with others, for future consideration and adjustment.

I have therefore to request that you will receive the said aggregate sum or either of the two which compose it, which may be offered, and issue duplicate certificates of the deposit, stating that the de-

posit is on account of the debt of said Collier, and specifying the character of the deposit received, whether for principal or interest, and by whom made.

I am very respectfully,
JAMES GUTHRIE,
Secretary of the Treasury.

JOHN A. DIX, Esq.,
Assistant Treasurer U. S., New York.

That on the 16th day of September, 1853, the said John A. Collier and George Law, as sureties of the said James Collier, as late Collector of California, accordingly paid and deposited with the Assistant Treasurer aforesaid, to the credit of the United States, one hundred thousand dollars:

And on the same day, the said John A. Collier, as such surety of James Collier, paid and deposited to and with the said Assistant Treasurer, to the credit of the Treasurer of the United States, the further sum of eighteen thousand five hundred and forty-six dollars, five cents:

That in making the said payments or deposits, it was declared by said John A. Collier and George Law, as is expressed in the duplicate receipts then and there executed by the said Assistant Treasurer, of which the following are copies:

Office of the Assistant Treasurer U. S.
NEW YORK, September 16, 1853.

$100,000. I certify that George Law and John A. Collier, as sureties of James Collier, late Collector of California, have this day deposited to the credit of the United States, one hundred thousand dollars, on account of principal of the debt of the said James Collier to the United States, for which I have signed duplicate receipts.

In making this deposit, it is understood and declared by the said George Law and John A. Collier, that it is for the full amount of the penalty of two official bonds of said James Collier to the United States, of the 3d of April, 1849, each in the penalty of fifty thousand dollars, in which the said James Collier is principal, and George Law and John A. Collier, are sureties, conditioned for the faithful discharge of the duties of said James Collier in the office of Collector of the Customs, for the District of Upper California, and Inspector of the Revenue for the Port of San Francisco, in the Territory of Upper California.

JOHN A. DIX,
Assistant Treasurer.

Office of the Assistant Treasurer U. S.
NEW YORK, Sept. 16, 1853.

I certify, that John A. Collier, as surety of James Collier, late Collector of California, has this day deposited to the credit of the

Treasurer of the United States, eighteen thousand five hundred and forty-six dollars $\frac{5}{100}$, on account of principal of the debt of the said James Collier to the United States, for which I have signed duplicate receipts.

It is understood and declared by the said John A. Collier, in making this deposit, that it is made by him as one of the sureties with Daniel L. Collier and Arnold H. Dorhman, in the official bond to the United States of said James Collier, as Collector of the Customs of the Territory of California, dated the 14th day of November, 1849, in which the said James Collier, as principal, and John A. Collier, Daniel L. Collier, and Arnold H. Dorhman are sureties, in the penalty of fifty thousand dollars, conditioned for the faithful performance by the said James Collier, of his official duties.

It is also understood and declared by said John A. Collier, that the sum above deposited, together with the sum of one hundred thousand dollars, this day deposited by George Law and John A. Collier, as sureties upon certain two other official bonds, dated April 3d, 1849, and for which a separate certificate is given, making in the aggregate the sum of one hundred and eighteen thousand, five hundred and forty-six dollars, $\frac{5}{100}$, and is to be applied as payment to that amount of principal, and not for interest, on account of the balance of $216,712 43, claimed to be due to the United States from the said James Collier, as adjusted by the Commissioner of the Revenue, and referred to in a letter from Honorable James Guthrie, Secretary of the Treasury, to John A. Dix, Assistant Treasurer of the United States, at New York, dated the 12th September, 1853.

JOHN A. DIX,
Assistant Treasurer.

And the jurors aforesaid, upon their oaths aforesaid, further find, that at the time of the said several payments or deposits, the said John A. Collier delivered to the said Assistant Treasurer, and forwarded by mail from New York, a notice addressed to the Secretary of the Treasury, of which the following is a copy; one being addressed to said Secretary, and the other to said Assistant Treasurer, viz.:

NEW YORK, September 16, 1853.

Hon. James Guthrie, Secretary of the Treasury.

Sir:—In making the several payments by the sureties of James Collier, late Collector of Upper California, amounting in the aggregate to the sum of $118,546 05, I desire, on behalf of the sureties, that it be expressly understood, that they do not thereby admit this amount to be due; nor do they admit their liability upon the official

bonds, or either of them; but on the contrary, it is insisted that they are not by law liable to pay any part thereof.

With great respect,
Your obedient servant,
JOHN A. COLLIER.

And the jurors aforesaid, upon their oaths aforesaid, further find, that after the said payments and deposits, and after the execution of the said receipts, the said Assistant Treasurer, on the same 16th day of September, 1853, addressed a letter to the Secretary of the Treasury at Washington, by mail, advising him of such payments or deposits of one hundred and eighteen thousand five hundred and forty-six dollars and five cents, as having been made "on account of principal of the debt of James Collier, late Collector of California, the amount which you" (the Secretary of the Treasury) "authorized me to receive from them as principal, in your letter of the 12th instant;" and the said Assistant Treasurer, at the same time, enclosed to the Secretary of the Treasury copies of the said two receipts given as aforesaid.

And the jurors aforesaid, upon their oaths aforesaid, further find, that the said letter and copies of receipts were received by the Secretary of the Treasury on the 17th day of September, 1853, and the receipt thereof was duly acknowledged by a letter from the Secretary of the Treasury to the Assistant Treasurer aforesaid, from which the following is an extract, and all that relates to this subject:

"TREASURY DEPARTMENT, Sept. 17th, 1853.

"Sir:—I am in receipt of your letter of 16th inst., in reference to the deposit made with you as Assistant Treasurer, by George Law and John A. Collier, on account of principal of the debt of James Collier, late Collector of the Customs at San Francisco, California, and transmitting copies of the receipts given by you to the parties for said deposit, which are satisfactory to the Department.

"Very respectfully, your obedient servant,
"JAMES GUTHRIE,
"Secretary of the Treasury.

"John A. Dix, Assistant Treasurer, New York."

And the jury aforesaid, upon their oaths aforesaid, further find, that on the said 16th day of September, 1853, the said John A. Collier addressed a letter by mail to the said Secretary of the Treasury, at Washington, from New York, of which the following is an extract and all that relates to that subject, which letter was received by the Secretary of the Treasury on the said 17th day of September, and the receipt acknowledged by him, by telegraph, on the same day.

Said extract is as follows:

"NEW YORK, Sept. 16, 1853.

"Hon. James Guthrie, Secretary of the Treasury.

"Sir:—The sureties of James Collier, late Collector of Upper

California, have this day paid into the Sub-Treasury Office, New York, the sum of $118,546 05, agreeably to the understanding with you upon the subject, being the principal without interest, according to the statement furnished by your Department to the Assistant Treasurer, a copy of which was furnished to me.

"Accompanying the payment, a note of the like tenor of the one herewith enclosed to you (being the notice from said John A. Collier, of the 16th September, hereinbefore mentioned,) was handed to the Assistant Treasurer.

"Very respectfully, your obedient servant,

"JOHN A. COLLIER."

But whether the said defendant is, upon the facts hereby found, chargeable with interest, or, if so, upon what sum, or for what period, or from what date, and to what date; or whether, if it shall seem to the Court that there is a balance due from the United States to the said James Collier, he will in that event be entitled to interest upon such balance, the jury are ignorant, and they submit the same to the decision and judgment of the said Court.

And if, upon the matters aforesaid, in form aforesaid found, it shall appear to the Court that the said James Collier did undertake and promise, in manner and form, as the said plaintiffs have above thereof complained against him; and that after making all just allowances and credits to the parties respectively in the premises, there is any sum of money due and owing to the plaintiffs from the said James Collier, then the jurors aforesaid, upon their oaths aforesaid, do find that the said James Collier did undertake and promise, in manner and form as the said plaintiffs have above thereof complained against him; and they assess the damages of the said plaintiffs, on occasion of the non-performance of the said promises and undertakings, at the sum of money which it shall seem to the Court is so due and owing from the said James Collier to the said plaintiffs.

And if the said Court shall, upon the facts aforesaid found, be of opinion and determine, that there is no balance or sum of money due from said James Collier to the United States, then the jury aforesaid, upon their oaths aforesaid, further find, that the said James Collier did not undertake or promise in manner and form, as the said plaintiffs have above thereof alleged.

And if the said Court shall be of opinion and determine, from the facts so found, that there is a balance due to the said James Collier from the United States, then the said jury, upon their oaths aforesaid, certify that there is such balance due to the said James Collier from the United States as shall be decided and determined to be so due to him.

And thereupon, day is given until the stated term of the said Circuit Court, to be held at the City Hall of the City of New York, in and for the said second circuit for the Southern District of New

York, on Friday, the thirtieth day of November, 1855, to hear and determine the said questions of law arising upon and presented by the said special verdict, because the said Court are not yet fully advised thereof: the same day is given to the parties aforesaid at the same place.

At which day and place, before the Honorable Samuel Nelson, an Associate Justice of the Supreme Court of the United States, and the Honorable Samuel R. Betts, District Judge, came the parties aforesaid, by their respective attorneys aforesaid.

And the facts aforesaid, so as aforesaid found, and all the matters aforesaid, being duly considered by the said Court, and mature deliberation being thereupon had, it seems to and is considered by the said Court now here, that the said James Collier did not undertake or promise in manner and form as the said plaintiffs have above thereof complained against him.

And it seems to and is further considered by the said Court, that there is a balance due to the said defendant upon the facts found in the said special verdict of eight thousand one hundred and ten dollars and twenty-nine cents, being the amount which, as found by said jury, was stolen from the Deputy Collector's Office, at Monterey, without neglect or default on his part, or on the part of the said James Collier, and which was charged against him, and required by the Treasury Department to be paid by him, and which was in fact paid into the treasury of the United States as a part of the said payments made on the said 16th day of September, 1853.

And thereupon it is adjudged and considered that the said defendant, according to the finding of the said jury, did not undertake and promise, in manner and form as the said plaintiffs have above in declaring complained thereof against the said defendant.

And it is further considered that the said plaintiffs take nothing by their said bill, but that the said defendant go thereof without day. And it is further considered and certified that the said balance of eight thousand one hundred and ten dollars twenty-nine cents so due from the United States be certified in his favor.

Judgment signed this 29th day of October, A. D. 1856.

R. E. STILWELL,
Dep. Clerk.

Indorsed: U. S. Circuit Court. Southern Dist. of N. Y. The United States v. James Collier. Copy. Judgment Record.

Filed Oct. 29, 1856.

In the Circuit Court of the United States for the Southern District of New York.

Bill of Exceptions, to be annexed to the Record in this case.

THE UNITED STATES OF AMERICA
v.
JAMES COLLIER.

Which said issue in manner aforesaid joined, afterwards, to wit, at a Circuit Court of the United States, held in and for the Southern District of New York, at the City Hall of the City of New York, on the fifth day of May, in the year of our Lord one thousand eight hundred and fifty-four, before the Honorable Samuel R. Betts, District Judge of the United States for the said District, then and there solely holding said Circuit Court, came on to be tried.

At which day and place came the parties aforesaid by their attorneys aforesaid respectively; and the jurors of the jury summoned to try the issue, to wit: Daniel H. Butz, Caleb Kirby, Terence M. Lynch, Arthur E. White, Francis McDonald, Abraham Kershow, David S. Van Wart, Charles W. Weld, William B. Fuller, Jeremiah G. Barnum, Adolphus Andreas, John A. Peel, being called, also came, and were then and there duly chosen and sworn to try the said issue.

And upon the trial the counsel for the said plaintiffs, to maintain and prove the said issue on their part, read in evidence a transcript from the Treasury Department, containing a statement and adjustment of the account of the defendant as late Collector of the Customs for the District of Upper California, bearing date the 22d day of September, in the year of our Lord one thousand eight hundred and fifty-three, and numbered 14,164, which was in the words and figures following:

Schedule No. 1.

No. 14,164.

TREASURY DEPARTMENT, First Auditor's Office, September 22d, 1853.

188 I have examined and adjusted the accounts of James Collier, late Collector of the Customs for the District of Upper California, under his official bond, dated 3d April, 1849, and find that he is chargeable with the following sums, viz.:

To balance of account, per report, No. 13,387,	$216,712 43
Estimated amount of fees received by him from 12th November, 1849, to 13th February, 1850, at $3,898 per month,	
189 3 $\frac{2}{30}$ per month, ...	11,953 86

York, on Friday, the thirtieth day of November, 1855, to hear and determine the said questions of law arising upon and presented by the said special verdict, because the said Court are not yet fully advised thereof: the same day is given to the parties aforesaid at the same place.

At which day and place, before the Honorable Samuel Nelson, an Associate Justice of the Supreme Court of the United States, and the Honorable Samuel R. Betts, District Judge, came the parties aforesaid, by their respective attorneys aforesaid.

And the facts aforesaid, so as aforesaid found, and all the matters aforesaid, being duly considered by the said Court, and mature deliberation being thereupon had, it seems to and is considered by the said Court now here, that the said James Collier did not undertake or promise in manner and form as the said plaintiffs have above thereof complained against him.

And it seems to and is further considered by the said Court, that there is a balance due to the said defendant upon the facts found in the said special verdict of eight thousand one hundred and ten dollars and twenty-nine cents, being the amount which, as found by said jury, was stolen from the Deputy Collector's Office, at Monterey, without neglect or default on his part, or on the part of the said James Collier, and which was charged against him, and required by the Treasury Department to be paid by him, and which was in fact paid into the treasury of the United States as a part of the said payments made on the said 16th day of September, 1853.

And thereupon it is adjudged and considered that the said defendant, according to the finding of the said jury, did not undertake and promise, in manner and form as the said plaintiffs have above in declaring complained thereof against the said defendant.

And it is further considered that the said plaintiffs take nothing by their said bill, but that the said defendant go thereof without day. And it is further considered and certified that the said balance of eight thousand one hundred and ten dollars twenty-nine cents so due from the United States be certified in his favor.

Judgment signed this 29th day of October, A. D. 1856.

R. E. STILWELL,
Dep. Clerk.

Indorsed: U. S. Circuit Court. Southern Dist. of N. Y. The United States v. James Collier. Copy. Judgment Record.

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In the Circuit Court of the United States for the Southern District of New York.

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THE UNITED STATES OF AMERICA
v.
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At which day and place came the parties aforesaid by their attorneys aforesaid respectively; and the jurors of the jury summoned to try the issue, to wit: Daniel H. Butz, Caleb Kirby, Terence M. Lynch, Arthur E. White, Francis McDonald, Abraham Kershow, David S. Van Wart, Charles W. Weld, William B. Fuller, Jeremiah G. Barnum, Adolphus Andreas, John A. Peel, being called, also came, and were then and there duly chosen and sworn to try the said issue.

And upon the trial the counsel for the said plaintiffs, to maintain and prove the said issue on their part, read in evidence a transcript from the Treasury Department, containing a statement and adjustment of the account of the defendant as late Collector of the Customs for the District of Upper California, bearing date the 22d day of September, in the year of our Lord one thousand eight hundred and fifty-three, and numbered 14,164, which was in the words and figures following:

Schedule No. 1.

No. 14,164.

TREASURY DEPARTMENT, First Auditor's Office, September 22d, 1853.

188 I have examined and adjusted the accounts of James Collier, late Collector of the Customs for the District of Upper California, under his official bond, dated 3d April, 1849, and find that he is chargeable with the following sums, viz.:

To balance of account, per report, No. 13,387,	$216,712 43
Estimated amount of fees received by him from 12th November, 1849, to 13th February, 1850, at $3,898 per month,	
189 3 $\frac{2}{30}$ per month, ...	11,953 86

	Ditto, ditto, from 14th February to 27th September, 1850, $7\frac{14}{30}$ months at same rate, ...		$29,105 06
	Ditto, ditto, from 28th September, 1850, to 14th January, 1851, $3\frac{18}{30}$ months at same rate, ...		14,032 80
190	Interest at 6 per cent. per annum, from 15th January, 1851, to 14th September, 1853, 2 years and 8 months, on $208,042 66, the balance due on said 15th January, 1851, and not accounted for on the 14th September, 1853, ...		33,286 81
			Dollars, 305,090 96

I also find that he is entitled to the following credits, viz.:

	By maximum compensation allowed per order of the Secretary of Treasury, from 3d April, 1849, to 13th February, 1850, at the		
191	rate of $3000 per annum,	2,600 00	
	Less salary heretofore credited to him during said period, at $1,500 per annum, .	1,300 00	—— 1,300 00
	Amount allowed him for compensation, from 14th February to 27th September, 1850, viz.:		
	Fees per contract, . .	29,105 06	
	Commission on collections,	30,831 58	—— 59,936 64
	Salary from 28th September, 1850, to 14th January,		
192	1851, at $10,000 per annum, under Act of 28th		
	September, 1850, . .	$2,970 41	
	Less salary heretofore credited to him for said period, at $1,500 per annum, .	445 56	—— 2,524 85
	And that the balance due the United States on the 15th of September, 1853, amounted to		$241,329 47
			Dollars, 305,090 96

As will appear from the statement and accounts herewith
193 transmitted for the decision of the Commissioner of Customs thereon.

T. L. SMITH,
Auditor.

To H. J. ANDERSON, Esq.,
Commissioner of Customs.

TREASURY DEPARTMENT, Office of Commissioner of Customs.
September 22d, 1853.

Admitted and certified,

H. J. ANDERSON,
Commissioner of Customs.

To F. BIGGER, Esq.,
Register, &c.

James Collier, Collector of the Customs for the District of Upper California, under Bond dated 3d April, 1849; commencing 12th November, and ending 31st December, 1849, in account with the United States.

Dr.

194	To Duties on merchandise, ...	$201,435 52
	Tonnage duty and light money, . .	13,702 62
	Marine hospital money collected, . .	1,333 28
	Dollars,	216,471 12

Cr.

	By payments to inspectors, ...	$10,616 08
	Contingent expenses; consisting of payments to deputies, clerks, and messengers, and for blank books, stationery, fuel, and other official expenses, . .	5,796 72
	Disbursements in relation to appraisements,	513 33
	Ditto, on account of revenue cutters, .	7,583 60
	" " " " " boats, . .	1,511 97
	Store account, ...	124 00
195	Salary of collector from 3d April to 31st December, 1849, ...	1,116 76
	Cash paid Alexander V. Frazer, commanding United States Revenue Cutter, Lawrence; with which said Frazer will be charged and held accountable, . .	4,610 58
	Balance due the United States, . .	184,568 08
	Dollars,	216,471 12

James Collier, Collector of the Customs for the District of Upper
196 California, under Bond dated 3d April, 1849; commencing 1st January, and ending 31st March, 1850, in account with the United States.

Dr.

To balance of his account, ending 31st December, 1849, per Report, No. 11,353,	$184,598 08
Duties on merchandise, ...	268,901 66

Tonnage duty,		4,468 50
Extra tonnage duty on Russian vessels,		336 96
Light money,		5,996 00
Marine hospital money collected,		4,710 74
Storage,		20 00
	Dollars,	469,031 94

Cr.

By payments to inspectors, &c.,		$20,158 00
Contingent expenses; consisting of payments on account of deputies, clerks, messengers, blank books, stationery, fuel, and other official expenses, including $14,726 66, rent of custom-house for February and March, 1850, at $7,000 00 per month, allowed by the Secretary of the Treasury, and rent of appraisers office from 12th November, 1849, to 1st April, 1850, at $200 per month,		26,610 48
Disbursements in relation to appraisements,		1,200 00
Ditto, on account of revenue cutters,		5,445 44
" " " " " boats,		5,393 79
Store account,		360 00
Salary of collector,		375 00
Balance due the United States,		409,489 23
	Dollars,	469,031 94

James Collier, Collector of the Customs for the District of Upper California, under Bond dated 3d April, 1849; commencing 1st April, and ending 30th June, 1850, in account with the United States.

Dr.

To balance of his account, ending 31st March, 1850, per Report, No. 11,357,		$409,489 23
Duties on merchandise,		419,206 05
Tonnage duty,		4,014 72
Light money,		1,378 50
Fines, penalties, and forfeitures,		7,271 59
Proceeds of sale of seized goods,		59,659 19
Special deposits for unascertained duties,	87,186 09	
Less special deposits accounted for,	14,584 55	72,601 54
Marine hospital money collected,		5,634 11
	Dollars,	979,254 93

Cr.

By payments to inspectors, &c., ...			$22,420 00
Contingent expenses, consisting of payments on account of deputies, clerks, messengers, blank books, stationery, and other official expenses, including $17,000 rent of Custom House, for April and May, 1850, at $7000, and for June, at $3000, per month, allowed by the Secretary of the Treasury; and rent of Appraiser's Office, at $200 per month, for April and May, 1850, ...			31,286 82
By disbursements, on account of seized merchandise, viz.:			
Ship Edward, ...	$21,971 73		
Brig Lala, ...	7,310 49		
Other small vessels, . .	161 80		
			29,444 02
Disbursements in relation to appraisements, .			1,766 31
Ditto for Revenue Cutters, ...			5,747 70
Ditto for Revenue Boats, ...			3,098 37
Store account, ...			364 00
Tonnage duty, and light money, received in 4 qrts, 1849, refunded, . . .	$729 96		
Ditto received, in 1st and 2d quarters, 1850, refunded, ...	582 84		
Light money, refunded, . . .	2,723 00		
			4,026 80
Salary of Collectors, ...			375 00
By amounts of the following warrants in favor of the Treasurer, viz.:			
No. 185, drafts, dated 30th September, 1850, . . .	$191,500 00		
No. 195, drafts, dated 14th June, 1850, ...	104,500 00		
			296,000 00
Balance due the United States, . . .			584,725 91
		(Dollars)	979,254 93

James Collier, Collector of Customs for the District of Upper California, under bond, dated 3d April, 1849; commencing 1st July, and ending 30th September, 1850, in account with the United States.

Dr.

To balance of his account, ending 30th June, 1850:	
Per Report, No. 11,402, ...	$584,725 91

	Duties on merchandise,		464,250 48
	Tonnage duty,		4,550 42
	Light money,		1,314 00
	Marine Hospital money collected,		6,223 07
	Special deposits received,	$180,794 20	
	Less special deposits accounted for,	162,450 75	
			18,343 45
205	Fines, penalties, and forfeitures,		62 50
	Proceeds of sale of seized goods,		36,848 12
	Storage received,		1,298 36
	Cash paid him, by C. W. Lawrence, Collector of New York, per order of the Comptroller of the Treasury, dated 3d April, 1849; for which said Lawrence has received credit per report, No. 10,186,		6,500 00
		(Dollars)	1,124,116 31

Cr.

	By payments to inspectors, &c.,		$28,898 00
206	Contingent expenses, consisting of payments on account of Deputies, Clerks, Messengers, blank books, stationery, and other official expenses, including $9,000 rent of Custom House, for July, August, and September, 1850, at $3000 per month, and $22,837 50 expenses of building or rebuilding wharf,		49,015 29
	Disbursements for Revenue Cutters,		12,826 76
	Ditto for Revenue Boats,		2,700 00
	Ditto in relation to appraisements,		986 50
207	Tonnage, and light money, refunded,		1,725 16
	Duties on merchandise, refunded,		1,333 40
	Store accounts,		368 00
	Salary of Collector,		375 00
	Amount of the following warrants in favor of the Treasurer, viz.:		
	No. 6, M. H.,	$3,931 99	
	No. 128, drafts,	7,000 00	
			10,931 99
	Balance due the United States,		1,015,156 21
		(Dollars)	1,124,116 31

James Collier, Collector of Customs for the District of Upper California, under Bond, dated 3d April, 1849; commencing 1st October and ending 31st December, 1850, in account with the United States.

208 Dr.

To Balance of his account, ending 30th September, 1850:			
Per Report No. 11,593,			$1,015,156 21
Duties on merchandise,			547,649 24
Tonnage duty,			6,104 14
Light money,			1,078 50
Marine Hospital money collected,			4,950 06
209 Special deposits received,	$247,028 15		
Less special deposits accounted for,	205,154 35		
			41,873 80
Proceeds of sale of seized goods,			2,525 46
Ditto of sale of unclaimed merchandise,			25 00
		Dollars,	1,619,362 41

Cr.

By payments to Inspectors, &c.,			$28,003 00
Contingent expenses, consisting of payments to deputies, clerks, messengers, stationery, and other official expenses, including $6000,			
210 rent of custom house, for October and November, 1850, at $3000 per month,			23,106 45
Disbursements in relation to appraisements,			1,308 00
Ditto, on account of Revenue Cutters,			9,305 95
Ditto, " " Revenue boats,			5,200 33
Ditto, " " Seized merchandise,			2,208 75
Ditto, " " Public warehouses,			430 00
Duties refunded,			225 30
Salary of Collector,			375 00
Amount of the following warrants in favor of the Treasurer, viz.:			
211 No. 146, drafts, dated 15th March, 1851,	$339,000 00		
" 195, " " 31st December, 1850,	55,500 00		
			394,500 00
Balance due the United States,			1,154,699 63
		Dollars,	1,619,362 41

James Collier, late Collector of Customs, for the District of Upper California, under Bond, dated 3d April, 1849; commencing 1st, and ending 14th January, 1851, in account with the United States.

Dr.

212	To Balance of his account, ending 31st December, 1850, per Report No. 11,631,		$1,154,699 63
	Duties on merchandise, ...		78,571 82
	Tonnage duty, ...		295 97
	Light money, ...		142 75
	Marine Hospital money collected, . .		717 99
	Special Deposits received,	$36,650 40	
	Less Special Deposits accounted for,	23,759 15	
			12,891 25
213	Proceeds of sale of seized goods, . .		13,681 89
	Amount received for Inspector's fees, .		3,346 00
	" " for storage, . .		1,032 50
	Fines, penalties, and forfeitures, . .		500 00
		Dollars,	1,265,879 80

Cr.

	By payments to Inspectors, &c., . . .		$6,248 80
	Contingent expenses, including $3,000, rent of Custom House, for December, 1850, and		
214	$80 for rent of Appraiser's store, from 1st to 12th June, 1850, ...		8,556 30
	Disbursements in relation to appraisements,		3,079 50
	Ditto, on account of seized merchandise, consisting of Storage, Lighterage, &c., .		45,010 28
	Disbursements for Revenue cutters, . .		208 86
	Ditto, for Revenue boats, . . .		219 06
	Costs of suit, paid, ...		926 67
	Salary of Collector, from 1st to 14th January, 1851, inclusive, ...		58 33
	Amount of the following warrants in favor of the Treasurer, viz.:		
215	No. 73, drafts, dated 10th May, 1851, . . .	$75,000 00	
	" 111, M. H. " . .	5,054 04	
	" 112, ——— " . .	5,500 00	
	" 142, Drafts, 20th .	5,000 00	
	" 202, " 11th June,	600 00	
			91,154 04
	Cash paid Thomas Butler King, his successor in office, per letter of the Comptroller of		

216	the Treasury, dated 1st November, 1850, and his receipt herewith, dated 14th January, 1851; with which said King will be charged and held accountable, . .	$893,705	53
	Balance due the United States, in cash on hand, ...	216,712	43
	Dollars,	1,265,879	80

James Collier, late Collector of Customs for the District of Upper California, under official Bond, dated 3d of April, 1849, in account with the United States.

Dr.

	To Balance of his account per Report, No.		
217	13,387, ...	$216,712	43
	*Estimated amount of fees received by him from 12th November, 1849, to 13th February, 1850, at $3,898 per month; $3\frac{2}{30}$ months, ...	11,953	86
	*Ditto, do. from 14th February, to 27th September, 1850; $7\frac{14}{30}$ months, at same rate, ...	29,105	06
218	*Ditto, do. from 28th September, 1850, to 14th January, 1851; $3\frac{18}{30}$ months, at same rate, ...	14,032	80
	Interest at 6 per cent. per annum, from January 15th, 1851, to September 14th, 1853, two years, eight months, on $208,042 66, the balance due on said 15th January, 1851, and not accounted for on the 14th of September, 1853, ...	33,286	81
	Dollars,	305,090	96

219 NOTE.—The Collector, though called upon to do so, has never rendered an account of official fees received by him, as required by the 12th section of the Act of May 7th, 1822. The amount charged in the above statement is based on facts ascertained and stated by an agent of the Treasury Department, who visited San Francisco during the time of said Collier's collectorship, as compared with the amount of official fees returned by his successor in office, for corresponding periods of time, being the resulting average of said comparison.

Cr.

220	By maximum compensation allowed per order of the Secretary of the Treasury, from		

	30th April, 1849, to 13th February, 1850, at the rate of $3000 per annum,		$2,600 00	
	Less salary heretofore credited to him during same period at $1500 per annum, . . .		1,300 00	
				1,300 00
	Amount allowed him for compensation from 14th February to 27th September, 1850, under joint resolution of 14th February, 1850, viz.:			
221	Fees, per contra, . . .	29,105 06		
	Commission on collections, .	30,831 58		
				59,936 64
	Salary from 28th September, 1850, to 14th January, 1851, at $10,000 per annum, under act of 28th September, 1850,	2,970 41		
	Less salary heretofore credited to him for said period, at $1500 per annum, . .	445 56		
				2,524 85
	Balance due the United States,			
222	September 15th, 1853, ...			241,329 47
			(Dollars)	305,090 96

Statement of differences to accompany the adjustment of the accounts of James Collier, late Collector of the Customs for the District of Upper California.

	The balance due the United States for his account dated 12th February, 1853, is			$80,493 78
	Add the following sums overcharged by him in 4th quarter, 1849, as payments to inspectors, &c., viz.:			
	To A. Kintzing, as inspector from 1st May to			
223	12th October, 1849, . .	$495 00		
	Amount allowed from 3d May, date of oath of office, . .	489 00		
			6 00	
	To J. A. Collier, as inspector from 3d April to 11th November, 1849, ...	669 00		
	Amount allowed from 13th of April, date of oath of office, .	639 00		
			30 00	

To E. D. Collier, as deputy collector, from 3d April to 11th November, 1849, . . $608 33
Amount allowed from 14th of
224 April, date of oath of office, . 578 42
29 91 65 91

The following sums charged by him for tonnage and light money refunded, viz.:
In 2d quarter, 1850, per Mexican brig Dos Amigos, ... $97 00
Less amount credited as received, 95 00
2 00
In 3d quarter, 1850, J. P. D. Green, charged also in 2d quarter, 1850, . 98 56
100 56

Amount charged by him in 1st quarter, 1851, as
225 "disbursements on account of seized merchandise," being the amount claimed as the Collector's proportion of seized liquors—disallowed; as these liquors were never condemned, as required by the revenue laws, therefore the Collector has no legal claim, not having complied with these laws, ... 47,352 33

Amount charged as his "proportion of bonds taken for vessels and cargoes seized, which seizures were declared legal by the Secretary of the Treasury, being one-half"—suspended until said bonds are collected, no portion being distributable until it is received, . . . 12,300 00

226 Amount charged as his "share of penal duties, collected and paid into the Treasury"—Disallowed. The Department does not recognize said additional duty as a *distributable* penalty. The 3d section of the act of February 11th, 1846, directly prohibits the additional duty imposed by the 17th section of the act of August, 1842, being deemed a penalty for the purpose of being distributed to any officer of the customs. The 20th section of the act of
227 March 1st, 1823, specially provides for the *distribution* of the additional duty imposed by the 13th section of that act; and the uniform practice of Congress has been specially to provide for the *distribution* of all penal duties or penalties when distributable. As no such provision for the distribution of the 20 per cent. additional duty imposed by the 8th section of

	the act of July 30th, 1846, exists, it is clear that this claim is illegal, and it is therefore disallowed, ...			14,000 00
228	Amount charged by him in a balance account, dated February 12th, 1853, for commission, being 3 per cent. on all his collections,		63,250 95	
	From which deduct amount credited in the accompanying statement to make up his maximum compensation of salary, fees, and commissions allowed by law,	63,761 49		
	Less amount of official fees, accruing during his official term, charged in said statement, not credited by him, . .	55,091 72		
			8,669 77	54,581 18
229	Interest charged in the accompanying statement, on $208,042 66, the balance of cash not accounted for by him, from the close of his official term to September 14th, 1853, inclusive, 2 years and 8 months, at 6 per cent., . .			33,286 81
	From which, . .			$242,180 57
	Deduct the following sums, short charged by him, for marine hospital disbursements, viz.:			
	In 3d quarter, 1850, . .	38 93		
230	In 4th quarter, 1850, . .	50 04		
			88 97	
	Collector's salary, short charged by him,		762 13	
				851 10
	Balance due the United States, per accompanying statement, ...			$241,329 47

I certify that the foregoing contains a true copy of the Auditor's Statement, accompanying his Report, on the accounts of James Collier, as finally passed by me.

(Signed) H. J. ANDERSON,
Commissioner of Customs.

SUMMARY STATEMENT.

RECEIPTS BY JAMES COLLIER, LATE COLLECTOR OF UPPER CALIFORNIA.

Time.	Duties on Merchandise.	Tonnage Duty and Light Money.	Marine Hospital Money.	Excess of Deposits for unascertained Duties.	Proceeds of Sales of Seized Goods.	Fines, Penalties, and Forfeitures.	Estimated Official Fees.	Storage, Inspector's Fees, &c. &c.	Aggregate.	
12 Nov. to 31 Dec., 1849,	201,435 22	13,702 62	1,333 28						216,471 12	
1st qr. 1850, ...	268,901 66	10,801 46	4,710 74					20 00	284,433 86	
2d " "	419,206 05	5,393 22	5,634 11	72,601 54	59,659 19	7,271 59			569,765 70	
3d " "	464,250 48	5,864 42	6,223 07	18,343 45	36,848 12	62 50		7,798 36	539,390 40	
4th " "	547,649 24	7,182 64	4,950 06	41,873 80	2,525 46			25 00	604,206 20	
1st to 14th Jan'y, 1851, .	78,571 82	438 72	717 99	12,891 25	13,681 89	500 00		4,378 50	111,180 17	
								Int'st charged.		
Balance account, . . .							55,091 72	33,286 81	88,378 53	
	1,980,014 47	43,383 08	23,569 25	145,710 04	112,714 66	7,834 09	55,091 72	45,508 67	2,413,825 98	$2,413,825 98

PAYMENTS BY JAMES COLLIER, LATE COLLECTOR OF UPPER CALIFORNIA.

Time.	Inspectors Wrs. Grs. and Meas.	Contingent Expenses.	Revenue Cutters and Boats.	Appraisements.	Seized Merchandise.	Duties ref'd. Miscellaneous.	Compensation.	Treasury Drafts and Successor.	Aggregate.	
12 Nov. to 31 Dec., 1849,	10,616 08	5,796 72	13,706 15	513 33		124 00	1,116 76		31,873 04	
1st qr., 1850, ...	20,158 00	26,610 48	10,839 23	1,200 00		360 00	375 00		59,542 71	
2d " "	22,420 00	31,286 82	8,846 07	1,766 31	29,444 02	4,390 80	375 00	296,000 00	394,529 02	
3d " "	28,898 00	49,015 29	15,526 76	986 50		3,226 56	375 00	10,931 99	108,960 10	
4th " "	28,003 00	23,106 45	14,506 28	1,308 00	2,208 75	655 30	375 00	394,500 00	464,662 78	
1 to 14 Jan'y, 1851, . .	6,248 80	8,556 30	427 92	3,079 50	45,010 28	926 67	58 33	984,859 57	1,049,167 37	
Balance account, . . .							63,761 49		63,761 49	
	116,343 88	144,372 06	63,852 41	8,853 64	76,663 05	9,683 33	66,436 58	1,686,291 56	2,172,496 51	$2,172,496 51
										241,329 47

(Copy.)

TREASURY DEPARTMENT, Register's Office,
September 29th, 1853.

240 Pursuant to the Act of March 3d, 1797, entitled "An Act to provide more effectually for the settlement of accounts between the United States and receivers of public money," I, F. Bigger, Register of the Treasury Department, do hereby certify, that the annexed is a true copy of the original on file in this office.

(Signed) F. BIGGER.
Register.

Be it remembered, that F. Bigger, Esq., who certified the annexed transcript, is now, and was at the time of doing so, Register
241 of the Treasury of the United States, and that full faith and credit are due to his official attestations.

In testimony whereof, I, James Guthrie, Secretary of the Treasury of the United States, have hereunto subscribed my name, and caused to be affixed the seal of
[L. S.] this Department at the City of Washington, this twenty-ninth day of September, in the year of our Lord 1853.

(Signed) JAMES GUTHRIE,
Secretary of the Treasury.

And thereupon the said counsel for the plaintiffs, rested the said case in their behalf, and to maintain and prove the said issue on their part,

The defendant then gave in evidence the following papers:

A letter from defendant to the Secretary of the Treasury, dated November 13th, 1849, with proposals inclosed, signed by
60 certain merchants.—Read from House Document 31st Congress, No 19.—Marked "Schedule No. 2."

A letter from same to same, dated November 29th, 1849, with proposals of Burgoyne & Co. inclosed, for furnishing Cutter Lawrence to the use of the Government.—Marked "Schedule No. 3."

A letter from the Secretary of the Treasury to the defendant, dated January 15th, 1850.—Marked "Schedule No. 4."

A letter from the same to the same, dated February 14th, 1850. —Marked "Schedule No. 5."

A letter from the Secretary of the Treasury to the Min-
61 ister of France, dated, July 6th, 1849.—Marked "Schedule No. 6."

A letter from the Secretary of the Treasury to the defendant, dated March 13th, 1850.—Marked "Schedule No. 7."

A letter from the Secretary of the Treasury to H. D. Hunter, Commander of the Revenue Cutter Polk, dated March 30th, 1850. —Marked "Schedule No. 8."

A letter from the Secretary of the Treasury to the defendant, dated April 9th, 1850.—Marked "Schedule No. 9."

A letter from the Commissioner of the Customs, to the
62 defendant, dated June 12th, 1850.—Marked "Schedule No. 10."

A letter from the Secretary of the Treasury to the defendant, dated March 26th, 1850.—Marked "Schedule No. 11."

A letter from the Secretary of the Treasury to the defendant, dated March 20th, 1850.—Marked "Schedule No. 12."

A letter from the Superintendent of the Coast Survey to the Secretary of the Treasury, dated September 5th, 1849; marked "Schedule No. 13."

The Secretary's reply thereto, dated September 27th,
63 1849; marked "Schedule No. 14."

Instructions of R. J. Walker, Secretary of the Treasury, to Captain Fraser, of the Revenue Service, dated October 24th, 1848; marked "Schedule No. 15."

Captain Fraser's letter to the Secretary of the Treasury, dated ovember 6, 1849; marked "Schedule No. 16."

A letter from the French Minister to the Secretary of State, dated March 21, 1850; marked "Schedule No. 17."

Two letters, accompanying the last-mentioned, from Heads of French Departments, dated, one, January 17th, 1850, the
64 other, dated January 26th, 1850; marked "Schedules Nos. 18 and 19." The translation of these letters were read from Treasury Letter Book, No. 169, Vol. II.

A letter from the Secretary of the Treasury to the Secretary of State, dated March 25th, 1850; marked "Schedule No. 20."

A Treasury Circular, dated July 26th, 1849; being No. 13, new series; marked "Schedule No. 21."

A statement of the defendant's accounts, made up by the
65 Treasury Department, June 7th, 1851; marked "Schedule No. 22."

Another statement, made up September 24th, 1851; part of "Schedule No. 22."

Another statement, made up December 26th, 1851; part of "Schedule No. 22."

The defendant's counsel then offered to read in evidence, a statement, or certificate, indorsed upon a copy of the said account of 26th December, 1851, No. 12,295, in the handwriting of J. R. McCorkle, Chief Clerk in the Office of Commissioner of Customs, of which the following is a copy:

66 "Office of Commissioner of Customs,
"January 29th, 1853.

"The following items in the foregoing statement of differences ought, in my opinion, to be allowed, viz.:

No. 1,	. . . . .	$1,772 33
" 2,	. . . . .	526 66
" 3,	. . . . .	120 00
" 4,	. . . . .	6 75
" 5,	. . . . .	22,837 50
" 6,	. . . . .	1,415 00
" 7,	. . . . .	44,270 28
" 8,	. . . . .	405,948 80
" 9,	. . . . .	9,984 50
" 10,	. . . . .	1,000 00
67 " 11,	. . . . .	29,444 02
" 12,	. . . . .	2,439 00
		$519,754 84

J. R. McCORKLE,
Clerk."

There were on the copy account upon which this was indorsed, corresponding marks of the like numbers, showing to which particular items this statement, or certificate, referred.

This evidence was objected to by the plaintiff's counsel, and rejected by the Court, and the defendant's counsel excepted.

Another statement, made up March 7th, 1853; part of "Schedule No. 22."

A letter from the Commissioner of the Customs to the de-
68 fendant, dated June 17th, 1851, claiming amount of balance as appearing by said first statement; marked "Schedule No. 23."

Another letter from same to same, dated September 25th, 1851; claiming balance; appearing by said second statement; marked "Schedule No. 24."

A letter from the defendant to the Commissioner of the Customs, dated November 19th, 1851, with a statement inclosed of the seized liquors; in respect to which, the defendant claimed a moiety of the proceeds; marked "Schedule No. 25."

A letter from the defendant to the Commissioner of the
69 Customs, dated November 20th, 1851; marked "Schedule No. 26."

A letter from same to same, dated November 18, 1851; marked "Schedule No. 27."

A letter from Lieutenant Gevin to the defendant, dated November 17th, 1851; marked "Schedule No. 28."

A letter from the defendant to the Commissioner of the Customs, dated November 17th, 1851; marked "Schedule No. 29."

A letter from same to same, dated November 20th, 1851; marked "Schedule No. 30."

A letter from same to same, dated November 17th, 1851;
70 marked "Schedule No. 31."

A letter from same to same, dated November 18th, 1851; marked "Schedule No. 32."

Another letter from same to same, dated November 20th, 1851; marked "Schedule No. 33."

A letter from the Commissioner of the Customs to the de-
71 fendant, dated November 26th, 1851; marked "Schedule No. 34."

A letter from the defendant to the Commissioner of the Customs, dated November 25th, 1851; marked "Schedule No. 35."

A letter from same to same, dated 27th November, 1851; marked "Schedule No. 36."

A letter from the defendant to the Commissioner of Customs, 2d December, 1851, inclosing defendant's account against the United States. This account was as follows (marked "Schedule Nos. 37 and 38"):

A letter from same to same, dated December 3, 1853.
72 (This is no doubt the letter of 2d Decr. 1851, last mentioned. —E. E., Jr.)

A letter from the Commissioner of the Customs to the defendant, dated December 29, 1851.—Marked "Schedule No. 39."

The quarterly returns of the defendant as Collector, to the Treasury Department, from November 12, 1849, to his surrender of his office, January 14, 1851, in which he debited himself for fines, penalties, and forfeitures to the following amounts:

$7,921	59
62	50
1,000	00
1,150	00

73 Making, in the whole, $10,134 09

And in which he also debited himself for proceeds of sale of seized liquors to the following amounts:

$61,649	19
37,201	62
2,525	46
18,426	00

Making in the whole, $119,802 27

And credited himself for disbursements, $47,352 33

Copies of these quarterly returns are annexed to the Bill of
74 Exceptions, and form a part of "Schedule No. 22."

The defendant then gave in evidence certain depositions
75 taken on commission.—Marked "Schedule No. 40."

The defendant then further gave in evidence the following:

No. 1,	. . . . .	$1,772 33
" 2,	. . . . .	526 66
" 3,	. . . . .	120 00
" 4,	. . . . .	6 75
" 5,	. . . . .	22,837 50
" 6,	. . . . .	1,415 00
" 7,	. . . . .	44,270 28
" 8,	. . . . .	405,948 80
" 9,	. . . . .	9,984 50
" 10,	. . . . .	1,000 00
67 " 11,	. . . . .	29,444 02
" 12,	. . . . .	2,439 00
		$519,754 84

J. R. McCORKLE,
Clerk."

There were on the copy account upon which this was indorsed, corresponding marks of the like numbers, showing to which particular items this statement, or certificate, referred.

This evidence was objected to by the plaintiff's counsel, and rejected by the Court, and the defendant's counsel excepted.

Another statement, made up March 7th, 1853; part of "Schedule No. 22."

A letter from the Commissioner of the Customs to the de-
68 fendant, dated June 17th, 1851, claiming amount of balance as appearing by said first statement; marked "Schedule No. 23."

Another letter from same to same, dated September 25th, 1851; claiming balance; appearing by said second statement; marked "Schedule No. 24."

A letter from the defendant to the Commissioner of the Customs, dated November 19th, 1851, with a statement inclosed of the seized liquors; in respect to which, the defendant claimed a moiety of the proceeds; marked "Schedule No. 25."

A letter from the defendant to the Commissioner of the
69 Customs, dated November 20th, 1851; marked "Schedule No. 26."

A letter from same to same, dated November 18, 1851; marked "Schedule No. 27."

A letter from Lieutenant Gevin to the defendant, dated November 17th, 1851; marked "Schedule No. 28."

A letter from the defendant to the Commissioner of the Customs, dated November 17th, 1851; marked "Schedule No. 29."

A letter from same to same, dated November 20th, 1851; marked "Schedule No. 30."

A letter from same to same, dated November 17th, 1851;
70 marked "Schedule No. 31."

A letter from same to same, dated November 18th, 1851; marked "Schedule No. 32."

Another letter from same to same, dated November 20th, 1851; marked "Schedule No. 33."

A letter from the Commissioner of the Customs to the de-
71 fendant, dated November 26th, 1851; marked "Schedule No. 34."

A letter from the defendant to the Commissioner of the Customs, dated November 25th, 1851; marked "Schedule No. 35."

A letter from same to same, dated 27th November, 1851; marked "Schedule No. 36."

A letter from the defendant to the Commissioner of Customs, 2d December, 1851, inclosing defendant's account against the United States. This account was as follows (marked "Schedule Nos. 37 and 38"):

A letter from same to same, dated December 3, 1853.
72 (This is no doubt the letter of 2d Decr. 1851, last mentioned. —E. E., Jr.)

A letter from the Commissioner of the Customs to the defendant, dated December 29, 1851.—Marked "Schedule No. 39."

The quarterly returns of the defendant as Collector, to the Treasury Department, from November 12, 1849, to his surrender of his office, January 14, 1851, in which he debited himself for fines, penalties, and forfeitures to the following amounts:

$7,921	59
62	50
1,000	00
1,150	00
73 Making, in the whole, $10,134	09

And in which he also debited himself for proceeds of sale of seized liquors to the following amounts:

$61,649	19
37,201	62
2,525	46
18,426	00
Making in the whole, $119,802	27
And credited himself for disbursements, $47,352	33

Copies of these quarterly returns are annexed to the Bill of
74 Exceptions, and form a part of "Schedule No. 22."

The defendant then gave in evidence certain depositions
75 taken on commission.—Marked "Schedule No. 40."

The defendant then further gave in evidence the following:

A letter from the Solicitor of the Treasury to the defendant, dated February 21, 1853.—Marked "Schedule No. 41."

76 A letter from the Commissioner of the Customs to the defendant, dated February 21, 1853.—Marked "Schedule No. 42."

Also an official certificate of the Secretary of the Senate, showing the nomination of James Collier to the Senate, as Collector of the District of San Francisco, under the Act of 28th September, 1850, and his rejection by the Senate, as follows:—Marked "Schedule No. 43."

The Bond, with its approval of sureties given, and oath of

77 office taken by T. Butler King, newly appointed Collector of the District of San Francisco. The oath was taken at New York, November 1st, 1850, and was again taken at San Francisco, in California, January 8, 1851.—Marked "Schedules Nos. 44 and 45."

A letter from the acting Comptroller of the Treasury to said T. Butler King, dated November 1st, 1850.—Marked "Schedule No. 46."

A letter from the acting Comptroller of the Treasury to the defendant, dated November 1st, 1850.—Marked "Schedule No. 47."

A letter from the defendant to the Secretary of the Treasury,

78 dated November 25, 1851.—Marked "Schedule No. 48."

A letter from John A. Collier, Esq., to the Secretary of the Treasury, dated November 29, 1851.—Marked "Schedule No. 49."

A letter from the Commissioner of Customs to the defendant, dated March 7th, 1353.—Marked "Schedule No. 50."

A letter from the defendant to the Solicitor of the Treasury, dated February 25, 1850.—Marked "Schedule No. 51."

The defendant then called as a witness Captain Alexander

79 V. Fraser, who being duly sworn, testified as follows:

I reside in Brooklyn. Am engaged in the Revenue service. Have been so engaged for twenty-two years, and for the last twelve years a captain of a Revenue cutter. I arrived in the Pacific in 1849, by order of R. J. Walker, Secretary of the Treasury. Mr. Collier, the defendant, arrived there early in November, 1849. My general duties were to protect the Revenue, and obey any directions of the Collector.

Question. In what condition did you find that coast as it respected infractions of the laws?

80 Answer. That is indescribable. I found no laws there except self-constituted laws.

Did a good many vessels enter there?

There were two or three hundred sail in the harbor when I arrived. They increased to six hundred at one time. I can't tell exactly what proportion, but a large proportion were foreign. It was scarcely possible to prevent infractions of the law. I employed boats all

night, to watch and prevent a violation of the Revenue laws, and to protect property. Even with that vigilance, I was not able entirely to protect the law from violation. There was difficulty in re-
81 lation to crews. Ships were nearly all deserted by their crews, and frequently by their officers. I was very frequently called upon by the Collector to assist in enforcing the laws, and to protect the shipping. Revolts were common. To prevent these abuses, I made arrests, and detained the men arrested until they could be placed in the hands of proper authorities. The revenue, or any portion of it, could not be collected without extreme vigilance. It requires vigilance to collect it anywhere, but it required extraordinary vigilance there. There were no courts of the United States
82 there. There were Justices' Courts and County Courts, created by I know not what authority. I know in one or two instances orders of these Justices' Courts were obtained to sell foreign ships. I know I stopped an execution on property which had been issued from one of these Justices' Courts.

What were the price of provisions such as pork, &c., there?

Flour was worth $50 to $60 per barrel; pork, $45 to $50; other articles were in proportion. The price of candles I don't know.

What kind of building did Col. Collier occupy for a Col-
83 lector's Office, when he first reached there?

An adobe, or mud and straw edifice, formerly used by the California Custom House under Mexico. I don't know that the Collector had any safe place to keep anything. There were no vaults or safes in the building for the safe-keeping of the public money. I siezed, or aided in seizing, I think, five or six small vessels engaged in the inland navigation, and I have had the custody of others by direction of the Collector. I don't know if they were allowed by the Treasury Department. I was paid my share of these
84 seizures, or of the fines and forfeitures incurred by the seized vessels by the Collector. My officers were also paid their share. I received the money from the Collector and paid it over to my subordinates.

Were there any decrees of condemnations?

There were none; for there were no courts to grant them.

What was done by the owners?

I know that in a number of the cases of these small vessels they were abandoned. It would, at one season, take five or six days, and at another, twenty days to go to Oregon. I never heard of anybody in that quarter travelling to Oregon by land, and don't know how long it would take. The clipper vessels go to New Orleans in ninety days. Mails from New Orleans arrived in thirty-five
85 days.

Could you or the Collector have left for New Orleans or Oregon?

I should think not. Col. Collier was personally and constantly

at San Francisco, all the time I was there. I was in the habit of making daily visits to the Custom House, and of seeing him every day. There was a great press of this illegal trade on that coast.

Would the government have been able to enforce the laws without these vigorous measures?

I think not.

Do you know whether there were at any times, mobs organized that threatened to take possession of the Custom House?

86 I recollect in a number of instances rumors of measures to rob the Custom House, which to me had a color of truth. I deemed it so probable that I had an armed force on shore all night, on several occasions. I had half my crew under arms. I do not recollect of Col. Collier being dragged out of the Custom House.

Do you know of Col. Collier's being seized by the throat and dragged out of the Custom House at the time of a fire, because he refused to pay five dollars an hour for working?

I recollect there were loud exclamations made.

Do you recollect why the crew of the Lawrence was ordered on shore with their arms?

87 It was to protect the public property—I don't recollect any assault.

Do you know of any public meetings having been assembled, and of one occasion where propositions were made to seize the Custom House, and when Col. Collier himself addressed the people?

I remember his being present on some such occasions, when they showed a disposition to resist the authority of the United States.

Question by the Court.—Were those assemblages of a riotous character?

Yes, sir, and the spirit that actuated them was to resist the officers of the Government. I furnished Col. Collier and his

88 sons, arms, and I knew they were armed night and day in the Custom House. I did not hear Col. Collier say, that they should pass over his dead body and those of his sons. I know there was a large force in San Francisco, who had come from the penal colonies of Great Britain. They were reported to be, and their conduct showed them to be desperate men.

How many men did you know there were publicly hanged there, without any law except that made for the occasion?

There were only two or three persons hung there, that I had any immediate knowledge of. There were many vessels lying

89 there without any one on board. It was not possible to prevent the crews from leaving them, unless they were paid very exorbitant rates. I employed men at $16 per day. Crews were paid $125 per month. When in the Custom House at San Francisco, I saw specie; there was a great deal in the Collector's private room; some in tin boxes, some in China trunks; a good deal was in bags under the Collector's bed, in his room; some loose in bags on the floor. He slept in the Custom House.

Question by a Juror.—Was it the Collector of the Port that slept in the Custom House?

Answer.—Yes. I think there were three or four sons of
90 the Collector there. They had at San Francisco three extensive fires. I don't know personally, but only from what I have heard, that the Collector was admonished to remove the specie. Some of my men were there at the fires; they were there with an officer, at the fire of May, when the specie was removed. This state of things continued, till the organization of the Courts there. I know nothing personally of any attempt of the mob to seize money in the Custom House.

Would the money have been safe without the constant presence and personal attention of the Collector, and those about him, and standing or sleeping there armed?

91 The only safety was in the extraordinary means that were used for its preservation, and it could not have been done without the personal attention of the Collector and those about his person. The difficulties in the collection of the revenue there, were unexampled. I never saw a country in the same condition since I was in the revenue service.

Being cross examined, he testified as follows:

I seized, or aided in seizing certain vessels.

Be good enough to name the vessels to which you referred?

I could not name them without my books. Most of them
92 were foreign names; they were almost all small inland boats.

How many did you thus seize?

Answer.—Six or eight. They were Peruvian, Chilian, English, and I don't know how many other flags they sailed under. They were mostly vessels which had been built up from ship's launches and long boats. There were one or two larger ones.

What became of these vessels?

They were sold at San Francisco by the Collector, I believe, sir.

What did any one of them sell for?

They sold for from $500 to $1500, or $2000 apiece, as near as my recollection serves me. I was present at the sale of
93 only one. She brought between twelve and fifteen hundred dollars.

Do you personally know that any of the other vessels were in fact sold?

I do not. That vessel which was sold was a small English schooner. I have endeavored, but can't recollect her name. Her captain's name was Tibby. She had no papers in the first place, but English papers. I do not know who owned her. I have said that some of these vessels had been abandoned, but I have no knowledge of any of those vessels being abandoned except from certain papers which I saw in the Custom-House, in the Collector's possession.

94 To this the plaintiffs objected, on the ground that the papers showing the abandonment ought to be produced.

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The counsel for defendant answered, that they were in the possession of the Government, and they ought to produce them.

You say that some money was paid you by Col. Collier. State, if you please, what sums of money were so received by you from Col. Collier?

I can't tell. I have not my account book here.

Can you or not, state any of the amounts which were received by you?

I can't tell the exact amount of one without my books. I
95 cannot tell you. I received that portion of the amount of sales that the law prescribes shall be divided among the Revenue officers of the vessel making the seizures. If I had my Reference Book, I could give you the amounts and particulars.

State any amount, or amounts?

If the vessel sold for $1000, or any other sum, one-half of the amount was handed to me by Col. Collier.

As to the vessel which I knew to be sold, I must have received from him one-half of the net proceeds of the sale. As to one vessel which I understood sold for $500, my best recollection is that
96 I received one-half of that, less the amount of expenses of sale, &c. I have got some recollection as to two sums received, but I cannot recollect anything about any other sums that I received. I certainly did receive some other sums from Col. Collier, but I can't recollect anything about the amounts. Whenever I received moneys from him, I gave him receipts. I did not say that I had any settlement (about these moneys I received) with the Treasury Department. I can't tell who was the owner of any one of the vessels sold. I could only know from the names on their papers, of which I kept no account. I saw some persons who re-
97 presented themselves to be the owners. I can only name Captain Tibby who claimed to be part owner. He did not tell of what part he was owner.

Question by a Juror.—Was he in command at the same time?

Answer.—Yes, sir.

Do you remember the brig Klinket?

That was the name of one of the vessels.

And the Felix?

I think I do.

The launch Charlotte?

I recollect her; she was a ship's launch.

Do you recollect the Rambler?

I think I do.

The schooner Del Fiero?

I recollect a schooner having a name like that.

The sloop Annie K.?

Yes, sir.

The schooner W. Inquingin?

I recollect her.

The Elizabeth?

98 Yes; there were, I believe, two Elizabeths, but one of them I had nothing to do with.

The sloop Sisters?

I remember her.

The brig Treaty?

I recollect she was under seizure.

The schooner Salania?

I know her. The other names on the list from the Polly down to the end of the list were mentioned by the counsel, and the witness said he did not recollect.

On further direct:—Did you on any occasion board these vessels and notify them, that unless they ceased this trade you would seize them?

I did; and this notice was circulated. I took from
99 them the licenses of Commodore Jones, which had been granted by him during the war, tore 'em up, and notified that if they were caught in the trade again, and continued their infractions of our laws, they would be seized.

Did they continue to keep in the trade afterwards?

They did: some of them made half a dozen trips.

What was the price of board in San Francisco?

I know my first breakfast there cost me $7. I paid $51 per week for the care of a nephew of mine in San Francisco.

On further cross-question:—What did you notify these vessels not to do?

I notified them not to navigate the inland waters of the
100 State, under a foreign flag, unless they took out American papers.

What did any of them do for which you seized their vessels?

They persisted in carrying freights up and down the Bay of San Francisco and its tributaries, from one point to another; and for this offence I seized the vessels, and handed them over to the Collector. That is the only offence they committed to my knowledge.

The defendant then gave in evidence as follows:—

From Abstract I, of quarter ending September 30, 1850,
101 a credit to the Government of proceeds of sales of vessels, $62 50. Marked "Schedule No. 52."

From an abstract of fines and forfeitures, from November 12, 1849, to June 30, 1850, inclusive, credited to the Government, $19,301 90. Marked "Schedule No. 53."

A statement of the defendant's receipts on account of liquors seized by him as forfeited, for breaches of the Revenue Laws of the United States, and sold by him as Collector. Marked "Schedule No. 25."

A letter from the Solicitor of the Treasury, to J. P. Hall, Attorney of the United States, in this District, dated March 29, 1853. Marked "Schedule No. 54."

102 A letter from John A. Collier to the Secretary of the Treasury, dated September 9, 1853. Marked "Schedule No. 55."

A letter from the same to the Commissioner of the Customs, dated September 16, 1853. Marked "Schedule No. 56."

A letter from the Commissioner of the Customs to John A. Collier, dated September 26, 1853, containing a statement of the amounts awarded to the owners of the seized liquors, the amounts paid on account of such awards, and the amounts remaining to be paid. Marked, "Schedules Nos. 57, 58, 59."

103 A letter from the Commissioner of the Customs to the Secretary of the Treasury, dated September 8, 1853. Marked, "Schedule No. 60."

Exemplified copies of 27 papers, duly certified by the Secretary of the Treasury, under date of 17th September, 1853, and a letter from the Secretary of the Treasury to John A. Collier, of 17th September, 1853, accompanying the same. Marked, "Schedule No. 61." Also the receipt for these papers, from the Treasury Department, dated 1st December, 1851, acknowledging receipt of them from James Collier, late Collector. Marked, "Schedule No. 62."

104 The plaintiffs objected to the introduction of said papers, called certificates of abandonment, on the ground that there was no proof of their execution, nor of the relation of the persons signing them, to the property referred to by them: and upon the ground that they were wholly irrelevant, even if such proof had been furnished.

The Court admitted the said papers to be read. To which decision, the said counsel for the plaintiffs did then and there

105 except.

The defendant introduced five papers, purporting to be certificates of abandonment found among his official papers, as Collector, but which he had inadvertently omitted to return to and file with the Department.

The said counsel for the plaintiffs objected to the admission of said five papers, on the same grounds as taken in the exception last stated. The said Court overruled said objection, and admitted the said five papers to be read to the jury; and the said counsel for the said plaintiffs then and there excepted to the said decision.

The said five respective certificates, signed respectively, E. Guyt, Robert C. Jenning, Charles Cobb, N. Dann and Simon Lake, are marked, "Schedules Nos. 63, 64, 65, 66, 67."

106 A letter from the Secretary of the Treasury to John A. Collier, dated September 12, 1853, enclosing copy of letter

from Secretary of the Treasury to John A. Dix, Assistant Treasurer, of the same date, which was also read in evidence. Marked, "Schedule No. 68."

Two certificates of deposit, subscribed by the Assistant Treasurer at New York, each dated September 16, 1853. Marked, "Schedules Nos. 69, 70."

A letter from John A. Collier, Esq., to the Secretary of the Treasury, dated September 16, 1853, and duplicate to Assistant Treasurer. Marked, "Schedule No. 71."

107 A letter from the Assistant Treasurer at New York, to the Secretary of the Treasury, dated September 16, 1853, enclosing copies of certificate of deposit. Marked, "Schedules Nos. 72, 73, 74."

A letter from the Secretary of the Treasury to the Assistant Treasurer, at New York, dated September 17, 1853; marked "Schedule No. 75."

Another letter from John A. Collier, Esq., to the Secretary of the Treasury, dated September 16, 1853; marked "Schedule No. 76."

A telegraphic despatch from the Secretary of the Treasury to John A. Collier, dated September 17, 1853; marked "Schedule No. 77."

108 A letter from the Secretary of the Treasury to John A. Collier, dated September 17, 1853; marked "Schedule No. 78."

A letter from John A. Collier to the Commissioner of the Customs, dated October 5th, 1853; marked "Schedule No. 79."

A letter from the Commissioner of the Customs to John A. Collier, dated October 31, 1853; marked "Schedule No. 80."

A letter from the Commissioner of the Customs to the defendant, dated November 2d, 1853; marked "Schedule No. 81."

109 A letter from the Secretary of the Treasury to the defendant, dated November 5th, 1853; marked "Schedule No. 82."

Report of the Secretary of the Treasury to the Senate, dated August 7th, 1852, read from executive document No. 103; marked "Schedule No. 83."

A letter from the Secretary of the Treasury to John A. Collier, Esq., dated September 17, 1853; this is Schedule No. 77.

A letter from the Secretary of the Treasury to the Commissioner of the Customs, dated September 10th, 1853; marked "Schedule No. 84."

110 Certain extracts from House Document No. 17, first session of 31st Congress; marked "Schedule No. 85." (This is Daniel Saffarans' letter, March 29th, 1849, to the Secretary of the Treasury.)

Two letters from the defendant to the Secretary of the Treasury (86, 87), each dated April 4th, 1849. (Daniel Saffarans' letter to defendant of same date, included in Schedule 87; and another (88)

from the Secretary of the Treasury to the defendant, dated April 20th, 1849; also, instructions (89) from the Secretary of the Treasury to defendant, dated 3d April, 1849; marked "Schedules Nos. 86, 87, 88, 89.")

The defendant then called, as a witness, Edwin D. Collier, who, being sworn, testified as follows:

I am a son of the defendant, and accompanied him to Cali-
111 fornia. I was with him from his starting from home to his return. Went out as Deputy Collector of the port of San Francisco. I performed duty as Deputy Collector to 1st December, 1849. From that time to 14th January, 1851, I acted as Cashier. We left home for California the 14th of April, 1849. One other son, John A. Collier, accompanied my father, and he remained with my father during his term of service. There was one other son there, but not in public employ. We rendezvoused at Fort Leaven-
worth, about eighteen hundred miles from Steubenville, Ohio,
112 where my father lived. It is five or six hundred miles above St. Louis, on the Missouri River. We were there about a week before the escort arrived. After we left Fort Leavenworth two days, we were detained three weeks at Indian Creek, where the commanding officer ordered the Government escort to halt. The cause of detention was, General Brook was ordered to command troops in New Mexico, and we halted to escort him. We reached San Diego about 27th October. We travelled, some on horseback, some in wagons, to Santa Fe. We then went on horseback as far as
113 Santa Cruz, and thence on mules to the Pacific Ocean, a distance of about one thousand miles, I think they called it. We had one fight with a tribe of Indians, which lasted three days; it was a running fight. Lost by the way several men, who were drowned in crossing the Colorado River. None others. I think three of the emigrants, travelling under cover of our train, were killed. It was a journey of great hardship. I have seen much hardship in my lifetime, but never experienced or saw so much as on that journey. My father's health, during the journey, was some-
114 times tolerably good, and at other times his health was so bad we feared we should never be able to get him to the Pacific. I travelled sometimes on foot and barefooted. We reached San Francisco from San Diego on the morning of the sixth day. We first reached the Pacific at San Diego. We stopped there two days, and left a Deputy Collector, with two or three Assistants, to discharge the duties, and we then sailed thence to San Francisco in a brig. We were six days on the voyage, and arrived at San Fran-
cisco on the sixth of November. The distance was six hun-
115 dred miles. At San Francisco we found things in a very bad condition. We found a Mr. Harrison acting by military authority as Collector in an adobe building, which had been used by the Mexican authorities. The old adobe was an unsafe, one story

building. It was a low building of unburnt brick, with only two windows in it; it was not a fit place for papers, it leaked very badly. We had to be up all night, taking care of the papers, when it rained, to prevent their being destroyed; there were no desks, nor
116 room enough to place them. The room I had was very small, only about twenty feet long, and that was all the space I had to receive all the money. The amount was sometimes very large. There was not light enough to see to count it. I had to count the money by candlelight, generally. We had to burn candles all day. Had no conveniences for keeping the money when we got it. We had one iron chest which did not hold much. It was principally in silver. We kept it in bags on the floor, and under my father's bed and mine. We got our meals in the Custom
117 House, because my father did not like to leave the Custom House to go anywhere else; he did not consider it safe, and it was not safe, and the doors were not strong; the outside door had but one hinge.

The floor once gave way under the weight of specie. We slept there always, with pistols at our sides. There was no other way to keep it safely; nor was there any other course, which would have protected us against robbery. I recollected my father trying to purchase a safe. I think the man asked $1500 for it. It was a small safe, and the receipts of a day or two would have filled it.
118 There were three fires, whilst I was there, by which the public money was in jeopardy. We removed a portion of the money out at the second fire, and the whole at the third. We then had all our money out, in wagons, under charge of different officers. After the fire, when we were putting the money, books, and papers back, some laborers, who said they had assisted in saving the books and papers of the Custom House, demanded their pay of my father; they demanded five dollars an hour, and he put them off till next day; they were importunate, and my father persisted; and while
119 we were moving the coin, they demanded their money, and refused to wait; and one of them made an attack on my father, and caught him by the throat; but my brother, who was stouter than myself, struck him, and after a fight of a few minutes, and with the aid of the police, we succeeded in dispersing the men; and, after that, we were permitted to pass the money into the Custom House, and we had no trouble. There were some papers lost at the time of the fire. The desks of the office were labelled. My desk was labelled "Cashier;" and, while it was out of the
120 office, it was broken open, one of my drawers taken out, with all its contents, consisting of Custom House papers, which we never afterwards recovered. They were papers belonging to the small vessels, and some were releases of liquors that had been seized by the Collector. They were generally releases of the seizures of the small vessels. The crew of the Cutter Lawrence were ordered

ashore that night, to assist in protecting the public property. The Mayor sent a force, and some citizens came also, having
121 heard that my father was attacked. They were armed. The price of storage, per ton, there, was enormous; it had been as high as ten dollars per month; it got down to five dollars, and, afterwards, the latter part of our stay there, was lower. Goods could not be kept long, without being consumed in storage. We could not procure storage for any less than the price I have named, and which we paid. I think, we got our storage for less than most others. We were under necessity of getting rid of articles as soon as possible, to avoid these expenses. The largest sum on
122 hand, at one time, was a million of dollars.

Did your father sleep with arms beside him?

We all did.

Do you know of the Custom House being threatened at a public meeting?

I recollect one occasion of a public meeting that was held on the Plaza, called on occasion of some ships that had been seized; and I think, there was a declaration made on the stand, that the people had best go, and take the Custum House, and all the money; that they were not a State, and that it belonged to the people, not to the Government. My father got a chance to speak, and he announced
123 to them that they could not take the Custom House, without going over the dead bodies of himself and his sons, and I knew his sons were not very far behind him in this feeling. Some deposits of powder found, during one of the fires, under the Custom House. The population of San Francisco was twenty or twenty-five thousand, many of them desperate characters. Very often deeds of violence were committed. Persons were not considered safe at any time. It was a frequent occurrence for men to be shot down. When we first went there, with only two meals a day, we
124 paid 25 dollars per week for board, without lodging; we paid our cook from 100 to 125 dollars per week. When I first went there, I slept in a gambling house on a pile of shavings. My father slept on a settee, of the room of Mr. Harrison, the military collector. It was difficult to get a place to sleep in. I do not think that board, with lodging, could be got for less than fifty dollars per week. I don't know where lodging was to be got without board. Candles varied from 4 dollars per pound, down. Butter varied
125 from one dollar to one dollar and fifty cents. Eggs were one dollar apiece, and not very good at that.

What was the state of the coast as to smuggling?

It required a great deal of vigilance and determination to enforce the law. My father had no officer to assist him, but the captain of the Revenue Cutter. Indeed, Captain Frazer was the only officer on the coast to assist him in his troubles. My father was constantly interfered with by the officers of the Courts, organized there. If he

had not seized the vessels, and stopped the illegal importation
126 of liquors, he might almost as well have closed the Custom House, because he would have been obliged to permit all kinds of smuggling. It would have had a bad effect. My father could not have got any one at anything like the compensation we, his sons received, to take the interest we did. I was offered 500 dollars per month, to leave the Custom House. I received at the Custom House, for a few months, 200 dollars; and afterwards, I received 250 dollars per month.

There were at San Francisco during the fourteen months we were there, a great many sick and destitute people, and my father
127 was asked and gave liberally to these people. He was constantly applied to by them for money to get something to eat, to go to the mines, or to get home, and large expenses fell upon him on this account.

My father did not receive any new instructions that I know of after 28th September, 1850, or any official notice of that Act from that time, down to the arrival of Collector King, who took possession of the Custom House, 14th January, 1851. My father's letters passed through my hands, and were filed away by me. When we first went there we had no books. We bought some of mer-
128 chants there, as well as we could, and wherever we could find them. They were not suitable. There never was any furnished by the Department. We got up blanks, and had them printed there. The price of printing was great as compared with this country.

What was the price of printing there as compared with this country?

There can hardly be said to be a comparison, so great was the difference. My father was never absent except once, that he went to Benicia one morning when sick.

Benicia was not a port of delivery. It is at the head of San Francisco Bay, on the north side. I received all the moneys
129 while I was cashier. My father, after 28th September, 1850, and up to 14th January, 1851, discharged the duties of Collector as before. There was no change in the line of his duty.

How was the account of fees kept?

The Deputy Collector kept his account of the moneys received by him. The moneys received by me I kept an account of. There were books kept showing the account of fees received by the Collector. They were blank books with columns showing the
130 amounts. At the end of every day's transactions the amounts of fees were put into a bag, and delivered to the Collector, the gross amount being stated on a slip attached to the bag; they were considered his funds. He had no other means of living, or funds to resort to for that purpose, except these fees. There were some three or four hundred vessels in the harbor, or out in the Bay

when we got there. The price of labor was $10 to $16 and $20 per day. Head carpenters got more. It was difficult to keep mechanics, laborers, or anybody else there. During the mining season,
131 every one wanted to go off to the mines. Returns were made every month of the gross receipts and expenditures of the Custom-house, and forwarded to the Treasury Department. Quarterly returns were also made. At the expiration of every three months an abstract of the books was made up, showing the receipts, and from what sources, and the disbursements, and on what account, and these accounts were accompanied with the vouchers. I heard Mr. Rockwell, the then Commissioner of Customs, say, at one interview, it was wonderful that the defendant's accounts were
132 kept so correctly; they had scarcely been able to discover any error; they had discovered only two. There was one where we overpaid an officer $2; and the other where we had twice refunded $98; making in all $100. These amounts were charged over to my father by the Treasury Department. My father returned to this country about 6th or 7th April, 1851.

When and in what shape had you any intelligence about the robbery of the Government moneys at Monterey?

It was the last of December, 1850, or first of January,
133 1851; we received the intelligence in a letter from Mr. Randell, the Deputy Collector at Monterey.

(This letter is Randell's letter, December 12, 1850. Objected to as evidence by U. S. Attorney. Court admits it only as proof of notice to defendant of the robbery.)

This letter was produced and read in evidence as follows.—Marked "Schedule, No. 90."

What is Moffat's Coin?

Moffat's Coin was the gold coin of a private banker at San Francisco, a fac simile of the American money, except it had his name on it. It was extensively circulated in California. Randell
134 subsequently came up and brought papers and account of sales of goods. The papers showed the amount of money received by him, was $9000. Out of this sum he had paid two or three officers attached to his office, and deducting these items, the papers showed a balance or deficiency in his account $8110 29, and that sum he never paid over to my father. The Randell papers or vouchers as to the sales, were sent to the Treasury Department. We credited the Government with the whole of Randell's receipts, and charged over on the books of the Custom House the
135 $8110 29, as a suspended account of A. Randell, Deputy Collector at Monterey. The accounts were entered in this way, because I wanted the books to show the whole transaction in the whole receipts of the Custom House. When we left, we turned over all the books and papers to Mr. King, taking receipts for them. The receipt of Mr. King was forwarded to the Department. From Steubenville to Washington was four hundred miles.

Do you know whether the Collector has any other account within his possession?

He has none that I know of.

136 Do you know about the amount of the fees of your father's office per month?

The counsel for the plaintiffs suggested, that if an account of the fees was kept, that account could be produced.

Witness.—The account is not here, and the Collector has none in his possession, that I am aware of.

The defendant proposed to prove by this witness in a general way, according to his best recollection, without reference to any accounts and without any specification of items, the gross amount of fees received per month on an average.

137 The plaintiffs objected to the evidence, and the Court admitted it.

To which decision the plaintiffs excepted, and the witness accordingly proceeded as follows:

The amount of fees per month received by the defendant would not, I think, average over fifteen hundred dollars per month. I should think the aggregate amount did not exceed twenty-five thousand dollars for the fourteen months. This money passed through my hands daily, and I make up my opinion from the receipts

138 taken from day to day in the office. The accounts for fees and for blanks sold were separately kept. I acted as Cashier from 1st December, 1849. Previously they would not vary much. I estimated the whole amount at $25,000.

By the Court.—What do you call fees?

Ans.—Entries and clearances of vessels—administering of oaths—granting of permits to land cargoes, and all statutory fees; everything except blanks sold.

The defendant then offered in evidence an account of receipts and disbursements at California Custom Houses for seventeen and

139 a half months next after the defendant left office, that is, from 15th January, 1851, to 30th June, 1852.

The evidence was objected to by the plaintiffs as irrelevant.

The Court admitted it, and the plaintiffs excepted.

It was read, and is as follows: marked "Schedule No. 91."

The said witness, Edwin D. Collier, further testified on the direct examination as follows:

My father's residence in Ohio was three or four hundred miles from Washington. By the way we usually travel, it is four

140 hundred miles. John A. Collier, my uncle, resided four hundred miles from Washington City. My father returned from California about 16th April, 1851. He went first to Washington City before he went home. I went with him. He went for the purpose of delivering up accounts of the last fourteen days of his office. The other accounts had previously all been forwarded to the Treasury Department. He had an interview with the officers of

the Treasury. I heard a few words pass between him and the Secretary of the Treasury. The Secretary told him he had best leave his papers, go home, and come there again at some subse-
141 quent time to settle up his accounts. My father's family had been residing at Steubenville during my father's absence. My mother met us in New York on our arrival. My mother was with us at Washington. We were not there more than four or five days. Mr. Corwin was the Secretary who advised him to go home and see his friends before further attending to public affairs. My father and I returned to Washington in June following. He then remained in Washington about two weeks. His sole business
142 there was to settle his accounts. I don't know as the treasury officers assigned any reason for not settling up his affairs. They said they were making up his account. I heard Mr. Corwin say he was going to Ohio. He told my father if they (in Washington) gave him any trouble about his accounts, to wait until he returned from Ohio. I don't know when Mr. Corwin returned. In September, 1851, my father, myself, and my uncle John A. Collier, were in Washington. We all went there for the purpose of trying to effect a settlement of the defendant's accounts. We were in Washington from four to six weeks.

143 About what time did you reach home?

We did not reach home till December.

Do you know whether suits were commenced shortly after that?

I know when my father came home, he found several writs in suits against him and his sureties in Ohio, ready in the hands of the Deputy Marshal, to be served.

Do you know how many suits were commenced in this State against him or his sureties?

Yes: three or four.

Do you know whether your uncle on behalf of your father, and the Solicitor of the Treasury, had a correspondence on these
144 subjects?

Yes: I don't know how long it lasted. My father next went to Washington after the commencement of these several suits in January, 1853. Uncle John A. Collier, my father and self went for the purpose of settling the accounts, and remained till the latter part of February, till about the 22d, I think. Myself and the clerks in the Auditor's Office, spent two or three days going over the account of sales and expenses of the seized liquors. One of the clerks and myself went through the whole account of the ex-
145 penses chargeable to the seized liquors, and found most of the vouchers for the expenses. They had all been returned to the Department, but I believe they could not find all the vouchers relating to the storage.

How was this expense account made out?

Where they could not find a voucher they struck out the item.

That was directed by the Secretary of the Treasury on the ground that the Government would not be protected unless vouchers were filed with the Department. The clerks in the Auditor's Of-
146 fice, after various items were thus stricken out, and the balance of net proceeds ascertained, said, and reported to the Secretary of the Treasury, that the Government was fully protected.

In this interview, in January or February, 1853, was there any settlement made or any adjustment of the defendant's accounts agreed upon by the officers of the Treasury?

There was a statement made up at the Auditor's Office—a rough statement, which showed the balance claimed to be due from the defendant, and which was to be submitted to the Secretary for his
147 approval, before they would make a final adjustment. The Auditor said that in his opinion this statement of the accounts was correct.

Did the Commissioner of Customs concur in that opinion?

I understood him to do so.

How was the charge for the Collector's commissions estimated?

At the rate we claimed, 3 per cent. on all the receipts for customs.

Was it allowed?

The whole of the items were allowed, but the acting Commissioner of Customs did not like to take the responsibility of a final statement or settlement of it until he had received authority from the Secretary of the Treasury.

148 What was the further understanding between you and the Commissioner of Customs and the Auditor?

The arrangement was that we should pay into the Treasury the sum of $118,546 05, being the balance shown by this statement in the Auditor's Office, but after that statement one item was rejected?

The defendant's counsel then proposed to the witness the following question:—The witness is asked whether or not this calculation included the Monterey money, the penal duties and the uncollected bonds, or whether or not they were left to defendant, as un-
149 allowed and unadjusted claims, to be presented thereafter as he might be advised, or what was said in respect to them?

The plaintiffs objected to the question, because it refers to some written paper not produced, and seeks to show its contents—because it asks what was said by some person or persons undefined, and does not call for the statement written or verbal of any designated person, and therefore tends to elicit inadmissible evidence.

The Court allowed the question to be put, and the plaintiffs excepted to the decision.

When we came over from the Auditor's Office, he came
150 with a rough statement, having $118,000 odd as a balance with that statement. Mr. Miller, the Chief Clerk, came from the Auditor's Office to the Office of the Commissioner of Customs

with this statement, and another Clerk from the Auditor's Office came with him.

Who was the Chief Clerk in the Office of the Commissioner of Customs?

J. K. McCorkle. There, there was an interview between Major Barker, the Acting Commissioner of Customs, and Mr. Miller,
151 Chief Clerk in the Auditor's Office. Whether Mr. McCorkle was present, I do not recollect. On that statement that was there produced, Mr. Miller (the Chief Clerk) had allowed the commissions, and the half of the net proceeds of the sales of the seized liquors. (My father was not there that I know of. I was there on his behalf, and either my father or my uncle was. My understanding was that the Commissioner of the Customs assented to it, but he did not like to take the responsibility of approving of it, as he was
152 the only acting Commissioner, and the accounts had been in controversy between the Collector and the previous Commissioner, without the assent of the Secretary of the Treasury.) The proportion they allowed of the liquors was one-half of the net proceeds, being about $34,000. But the Secretary of the Treasury rejected the commissions, and the items for the seized goods.

Do you know whether any arrangement was made to leave the commissions to be adjusted or litigated, and the rest of the money to be paid in?

The counsel for the plaintiffs objected to the question, and the Court sustained the objection, and the defendant's counsel ex-
153 cepted.

The defendant then offered in evidence two telegraphic despatches, respectively dated February 25th and March 3d, 1853, from Mr. Miller, Acting Chief Clerk of the First Auditor of the Treasury, addressed to the witness.

The plaintiffs objected to the same, but the Court admitted them, and the plaintiffs excepted to the decision.

They were read, as follows:

154 "WASHINGTON, February 25th, 1853.

"To E. D. COLLIER, Metropolitan Hotel, New York:

"Decision of the Secretary of the Treasury at five minutes to eleven this day. Account reported to Commissioner to-morrow morning.

"M. H. MILLER."

"WASHINGTON, March 3d.

"To E. D. COLLIER, Metropolitan Hotel, New York:

"Account reported to Commissioner, February 25th. Still there. Cannot find McCorkle. Balance one hundred eighty-one thousand seven hundred and ninety-seven dollars."

These telegraphic despatches referred to my father's account. My father and uncle were here in New York then, waiting for a

statement of the account. We were all here waiting for some ten days. Father and self were waiting here several days after my uncle left. We then received the account of the Treasury
155 Department of the 7th March, 1853, and left for my uncle's, at Binghamton. We received it about 8th or 10th March, 1853. My uncle John and I went on to Washington about the middle or last of August, 1853. We then remained there from two to three weeks. Some time during that visit there, and I think in the fore part of September, I asked for that rough statement. I asked Mr. Miller for it. He told me it was considered a rough, unofficial statement, and they did not preserve it. My father and uncle have been at New York upon this business several times.

156 Did your uncle also visit Steubenville, Ohio?

He did in September.

How long previous to that was your father arrested on the indictment?

This question was objected to by Mr. O'Conor, and the Court sustained the objection.

The paper produced this morning being the statement of the receipts and expenditures of the six Collection Districts of the State of California, being shown to the witness and examined by him, witness says, This statement of receipts of money subsequently to my father's Collectorship, shows an average receipt of fees per
157 month of $1616, for the whole State.

Did you ever see this statement before yesterday?

I never did.

Or anything containing its contents?

Never.

What is the amount of the whole revenue received as therein stated?

It is a little over three millions for all the Districts.

On being cross-examined, the said witness testified as follows:

Who is Mr. McCorkle, mentioned in the telegraphic despatch?

He was at that time the clerk in the office of the Commissioner of the Customs, through whose bureau our accounts were to pass, after coming from the Auditor's office, and before being finally sub-
158 mitted to the Secretary of the Treasury.

How many books were there, containing accounts of fees?

There were several books of account containing the account of the fees. There were two books kept, one by the Deputy Collector at his desk, one by me at mine. These two volumes and the continuations, form the whole account. Can't tell how many there were altogether. They were of different sizes.

Had you a sub-officer named Ely?

Yes: he was a clerk, the book-keeper.

Did he keep any account of these fees?

159 No: nor had he any control or custody of them. They were not concealed from any of the clerks of the Custom-House, and of course he might have looked into them if he pleased.

Are you sure that these books were left with Mr. King?

There were no books carried away. I have no distinct recollection of their being delivered to Mr. King; nor did I take any receipt specifying what books were delivered. I took merely a general receipt for the books of the Custom House.

On further direct examination, he testified as follows:—Where was the account of blanks sold?

Answer.—They were kept separate and apart from the 160 account of fees, but in the same books. The amount received for fees were put down to fees, and receipts for blanks to blanks.

Are you sure that these books were left with Mr. King?

They must have been. We did not bring them away with us. The receipts for blanks and fees were added up at the end of every day's business, and put down in a lump to show the amount received. They were entered on the same page. Some fees were refunded, under direction of Treasury Department. I think something like $2000 of fees, which had been illegally received by defendant's 161 under officers, were returned by him to the parties, under the direction of the Secretary of the Treasury.

The schedule of the allowances to the owners of seized liquors, and statement of the amounts awarded, is also annexed to this case. Marked "Schedules Nos. 58 and 59."

The schedule and statement was objected to by defendant's counsel, as evidence as irrelevant and inadmissible against the defendant. It was received in evidence subject to this objection, defendants excepting.

The several schedules above referred to, are as follows:

"*Schedule No.* 2."

See House Doc. p. 24.

A letter from defendant to the Secretary of the Treasury, dated November 13th, 1849, with proposals enclosed, signed by certain merchants. Read from House Document 31st Congress, No. 17.—Marked "Schedule No. 2."

"*Schedule No.* 3."

See House Doc. p. 29.

A letter from defendant to the Secretary of the Treasury, dated November 29, 1849, with proposals of Burgoyne & Co. enclosed, for

furnishing Cutter Lawrence to the use of the Government. Marked, "Schedule No. 3."

"*Schedule No.* 4."

(Copy.)

Treasury Department, January 15th, 1850.

SIR—I have received several communications under dates 9th, 21st, and 30th November last, from R. Shiltongton, Messrs. Glen & Co., and Messrs. Starkey, Janson & Co., merchants at San Francisco, requesting this Department to remit certain forfeitures
290 and penalties accruing from the importation of spirits, &c., in cask, &c., of a capacity forbidden by law, and in which cases it is alleged the merchandise has been duly seized by yourself for the breach of the law.

In reference to them, and similar cases, I have to state that this Department has no power to afford relief by the remission of penalties and forfeitures incurred by infractions of the revenue laws, except as conferred by the mitigating and remitting law, of 3d March, 1797, in cases presented in mode prescribed in that law, having undergone the summary judicial examination therein provided.
291 Your attention is particularly called to the provisions of that law, and you will perceive, that upon the report of the Judge of the proper District Court of the United States, after this examination of the case, on the petition of the applicant, this Department has the power to remit, provided, that in his opinion the penalty or forfeiture has been incurred without wilful negligence, or any intention of fraud.

No United States Courts having been established by law within the limits of California, I have to call your attention to
292 the fifth section of the act of 3d March, 1849 (extending the revenue laws over Upper California), from which you will perceive, that the District Court of Louisiana, and the Supreme Court of Oregon, are invested with original jurisdiction, and may take cognizance of all cases arising under the revenue laws in the District of California.

The preliminary proceedings therefore, required by the remitting act of 3d March, 1797, must be had before one of those tribunals, and the proper judicial report thereof made to this Department, when the cases will be entertained and decided.
293 You will please explain to the applicants seeking relief from the Department, in these and similar cases, the course of proceeding prescribed by law.

Very respectfully, your obedient servant,

W. M. MEREDITH,
Secretary of the Treasury.

JAMES COLLIER, Esq.
Collector of the Customs, San Francisco, Upper California.

"*Schedule No. 5.*"

(Copy.)

Treasury Department, February 14, 1850.

SIR—In your communication under date of the 29th November last, you refer in general terms to the practice which seems to have prevailed at your port, of permitting the entry of merchandise, the product of Chili, imported in French vessels, clearing from a port in France for San Francisco, via Valparaiso; and you intimate your conviction of the illegality of such importations. Since the
294 receipt of your communication, this Department has received a letter from Mr. Rodolfo Kunhardt, of San Francisco, stating the case of the French ship "Edward," alleged to have pursued the course indicated in your letter; a part of whose cargo seems to have been seized by you on entry at San Francisco, as having been imported in a French vessel, from Chili, in contravention of the provisions of the navigation law of March 1st, 1817.

295 For your information respecting the relations of the United States with France and her dependencies, as established and regulated by existing laws and treaties in reference to navigation and commerce, I enclose a copy of a letter addressed by this Department, under date of the 6th July last, to the late French Minister, Mr. Poussin, from which you will perceive that the importation of merchandise in a French vessel, from Chili into ports of the United States, is legal; but that the importing vessel is in such cases liable to a tonnage duty; and that the merchandise so imported, not being the production of the industry or soil of France,
296 is liable, on entry at our ports, to the discriminating duty imposed by the 11th section of the Tariff Law of 30th August, 1842.

Before the facts stated to the Department in the case of the "Edward," therefore, the merchandise imported in that vessel was not liable to seizure and condemnation on the ground of its importation from Chili in a French vessel, but was lawfully imported; subject, however, to the discriminating duty imposed by the 11th section of the Tariff Law of 1842, while the importing vessel was liable to the tonnage duty provided for in the treaty between the United
297 States and France, of the 24th June, 1822.

The foregoing, with the enclosed, will put you in possession of the views of the Department in the case of the "Edward" and other French vessels, pursuing a similar course of importation into San Francisco.

Very respectfully, your obedient servant,

W. M. MEREDITH,
Secretary of the Treasury.

JAMES COLLIER, Esq.
Collector of the Customs, San Francisco, California.

"*Schedule No.* 6."

Treasury Department, July 6th, 1849.

SIR—I have the honor to acknowledge the receipt of your
298 Excellency's communication of the 27th ult., propounding certain questions, as to the operation of our navigation and revenue laws, and the effect of the subsisting treaty stipulations between the United States and France, bearing date the 24th June, 1822, so far as relates to the *indirect* trade on the part of French vessels and their cargoes, with the ports of the United States.

In answer to the first *four* questions, I have the honor to state, in consideration of the assurance received from an authentic official source, that the laws of France "do not prohibit the Ameri-
299 can flag from the indirect navigation to and from France;" that under the terms of our navigation act of the 1st March, 1817, the same privilege is conferred upon the French flag pursuing a similar navigation to and from the ports of the United States.

In answer to the fifth question, I would respectfully remark, that French vessels lose their assimilation to our national vessels, or in other words, are subjected in our ports to imposts from which vessels of the United States are exempt, under like circumstances, in the following cases:

First, French vessels arriving in our ports from France,
300 or any other country, except from any of the colonies of France hereinafter mentioned, become subject in our ports, in pursuance of the treaty of 1822, and the act of Congress for carrying said treaty into effect, of the 3d March, 1823, to the duty over and above that paid by vessels of the United States, not to exceed ninety-four cents per ton of the vessel's French passport.

Second, Any articles of merchandise thus introduced, not being of the "production of the soil or industry of France," become chargeable, on entry at any of our ports, with the discrimi-
301 nating duty imposed by the 11th section of the tariff act, of the 30th of August, 1842, decided by the Department in its circular instructions of the 25th November, 1846, a copy of which is enclosed, to be still in force, and applicable to similar cases arising under the tariff act of 30th July, 1846.

With reference to the exception of certain colonies of France, before alluded to, it is to be remarked, that the commercial intercourse between them and the United States is regulated by the acts
302 of Congress of 9th May, 1828, 13th July, 1832, 1st June, 1842, 3d March, 1845, and the President's order of 9th February, 1829, and proclamation of 20th of April, 1847.

In pursuance of the foregoing, French vessels coming directly from the Islands of Guadaloupe and Martinique, Miquelan, and Saint

Pierre, and from the port of Moule, Island of Grand Terre, the port of Grand Bourg in the Island of Marie Galante, the port of Cayenne, in the colony of French Guiana, laden with articles, the growth or manufacture of either of said islands, and which
303 are permitted to be exported therefrom in American vessels, may be admitted into ports of the United States, on payment of no higher duties on tonnage, or on their cargoes aforesaid, than are imposed on American vessels, and on like cargoes imported in American vessels. A like privilege is extended to French vessels coming direct from the Islands of Martinique, Guadaloupe, Miquelan, and Saint Pierre, *in ballast.*

I have the honor to be, Sir, with great respect,

W. M. MEREDITH,
Secretary of the Treasury.

His Excellency,
GUILLAUME TELL POUSSIN,
Minister, &c., from the French Republic. (Washington.)

"*Schedule No.* 7."

(Copy.)

TREASURY DEPARTMENT,
March 13, 1850.

SIR: I have received a communication, under date of the 14th January last, from Messrs. G. S. Wardle & Co., of San Francisco, in which they state the case of a seizure, at your port, of a quantity of spirits, beer, and ale, in the brig "Giraffe," imported in that vessel from Sydney, New South Wales, in quantities forbidden by law.

In relation to this description of cases, I have only to refer you to my instructions to yourself, under the dates of the 15th
305 January last, and the 9th instant, on this subject, and you will please explain to the parties the course to be pursued by them, in order to bring their case before this Department for action.

In relation to the concluding paragraph of this letter (copy enclosed), respecting the expenses of appraisement, I have to state that, there being by law no permanent appraiser at your port, the duty of appraisement devolves on you as Collector of the Customs, under the provision of the 22d section of the Tariff law of 1842, and that no fees are to be paid to you for that service. In case
306 of dissatisfaction with your appraisement, on the part of the owners, importers, consignees, or agents, you are authorized, by the 17th section of the Tariff law of 1842, on their application, to select two discreet and experienced merchants to revise your appraisement, and their decision is final and conclusive. This reappraisement by merchants must be at the expense of the parties demanding the same. You will explain this matter also to the applicants in this case, who have been referred to you for information.

In relation to the question as to freight, in the case of articles thus imported, it can be answered, so far as this Department
307 is concerned, only when the case comes before it properly for remission; of course, if any fees have been improperly exacted in this case, they should be restored to the party from whom they may have been erroneously demanded.

Very respectfully, your ob't servant,

W. M. MEREDITH,
Secretary of the Treasury.

JAMES COLLIER, Esq.,
Collector of the Customs, San Francisco, Cal.

"*Schedule No.* 8."

(Copy.)

TREASURY DEPARTMENT,
March 30th, 1850.

SIR:—As soon as the freights ordered to be shipped for the Collection District of California and Oregon, are received on board the Revenue Bark Polk, and other necessary preparations for the voyage are completed, you will get the vessel under weigh, and proceed to the port of San Francisco via Cape Horn.

308 In view of the distant service to which the officers are thus assigned, of the increased charges resulting therefrom, and of the provisions of the joint resolution of Congress, dated 14th February last, it is deemed proper that they should receive a navy ration in kind while so employed, and you are accordingly authorized to direct the supply of the ration, from and after your departure from New York. Having respect to the interest of the Government in that quarter, it is desirable that the voyage may be accomplished in the shortest time consistent with a proper regard to safety,
309 and it is not doubted that your best efforts will be employed to quicken the passage.

Should you have occasion to touch at any intermediate port or ports, to repair damage, or procure supplies of water, or fresh provisions, it is expected you will exert all the means at your command to hasten the departure of the vessel and resume the voyage. More detached instructions on this point are deemed unnecessary.

On your arrival at San Francisco, you will report yourself to the Collector of the Customs of the District, and obey his orders.

That you may be acquainted with the views of the Depart-
310 ment in regard to the disposition of the revenue cutters and boats, and employment of the officers ordered to California and Oregon, I would remark that in the present state of the commerce of that coast, it is believed the interests of the Government will be best served by employing them all on the coast of California; the lighter vessels between Monterey and San Francisco, and adjacent waters, and the larger ones as far south as San Diego, and as

far north as Astoria, when, in the opinion of the Collector at San Francisco, it becomes advisable.

It has been suggested, however, that the Bark Polk, from
311 her spacious accommodations, and in the present state of affairs, may be more usefully and profitably occupied as a Custom House for the port of San Francisco, than as a cruising vessel. Should the Collector concur in the suggestion, he is authorized to use the vessel for that purpose, and you will have her moored and prepared accordingly.

Being senior in command, and being assigned to the Polk by order of the Department, you will of course continue in command of that vessel, however, or wherever employed, and under the general superintendence of the Collector, have the direction of the officers
312 and boats that may be detailed from your command for duty in contiguous waters, or on more distant parts of the coast.

Captain A. V. Fraser, in command of the Brig Lawrence, will have the same rights and powers as respects the officers and boats detailed from his command; and neither of you will exercise authority over the proper command of the other. To encourage vigilance on the part of the officers of the revenue cutters, in the detection of frauds upon the revenue, it is provided by the 91st section of the Act of 2d March, 1799, that they shall be entitled to receive one-
313 half of all fines, forfeitures, or penalties recovered upon their information, to be divided among the officers of such cutter, agreeable to their pay.

It is foreseen that these provisions for the cause will make ample employment at one part of the coast, more desirable than at another, and that the Collector at San Francisco will be embarrassed by applications from the officers of the two vessels to be employed in particular localities; no better remedy for complaints and embarrassments arising from this source occurs to me, than alterations
314 in the localities, employment, and operations of the boats and officers of the vessels; and in a desire that all should share alike in the advantages and disadvantages of the service, the Collector at San Francisco will be instructed that such are the views of the Department.

Should this course fail to secure satisfaction among the officers, a remedy may be found in an agreement among themselves, to share in the proceeds of all seizures and condemnations, upon their information under the Acts referred to. In making suggestions designed to secure harmony and cordial co-operation in the public busi-
315 ness, it is to be borne in mind, and you will impress it upon all the officers associated with you, as an injunction of the Department, that in the exercise of the powers committed to them by the revenue laws, their deportment shall be signalized by prudence and moderation, and that they will be held to a strict responsibility for any delay, vexation, or other undue severity arising from

their interruption, or improper interference with the lawful commerce of the country, when not justified by the facts of the case. Great caution in such matters should be everywhere observed, and
316 especially at parts so distant as those forming the scene of your operations, and where parties from that cause are subject to so long delay in their appeals to the Department for redress.

Trusting that in the discharge of the public duties committed to you and the officers of your command, you will be distinguished for zeal and activity, it only remains that I should wish you a prosperous voyage.

I am, respectfully, sir,
Your obd't servt.
(Signed) W. M. MEREDITH,
Secretary of the Treasury.

H. D. HUNTER, Esq.,
Commanding Revenue Bark Polk, New York.

"*Schedule No.* 9."

(Copy.)

TREASURY DEPARTMENT,
April 9th, 1850.

SIR: The attention of the Department has been called to
317 the case of a seizure at your port, near the close of December last, of certain British goods, originally shipped from Liverpool, and transhipped at Panama, as is alleged, on board the British Brig "Ocean," and imported, in that vessel, into your port; said merchandise being the property and to the consignment of Mr. J. de Peussage Green, of San Francisco.

Upon the representation of the facts in the case, the Department regards the importation, thus made, as having been in contravention of the laws of the United States, then in force, and that a
318 forfeiture would properly accrue.

But if the party in this case desires a remission of the forfeiture, you will advise him as to the course to be pursued, in order to bring the matter before the Department in the mode prescribed by the remitting law of 1797; and you will afford him and others, in similar cases, every proper facility for the accomplishment of that object, as you have been heretofore instructed.

Very respectfully,
Your obedient servant,
W. M. MEREDITH,
Secretary of the Treasury.

JAMES COLLIER, Esq.,
Collector of the Customs, San Francisco, California.

(Copy.)

TREASURY DEPARTMENT,
April 9th, 1850.

SIR: In addition to the instructions heretofore transmitted
319 to you, in relation to several cases of seizures at San Francisco for alleged violations of the Revenue laws, I have now to call your attention to a case presented to the Department by Edmund Scott, Esq., of San Francisco, in which it appears you seized, in December last, a quantity of merchandise imported into San Francisco in the British Bark "Lala," from Valparaiso, on the ground of its being an illegal importation.

Upon the facts of this case, as they are understood by the Department, from the representations of Mr. Scott, the importation
320 must be regarded as having been made in contravention of laws then in force.

If the party desires relief, he must apply to the Court having jurisdiction in such cases; and upon the Judicial report of the facts, as prescribed in the remitting law of 1797, the Department will be prepared to entertain and act definitely in the case.

I need add nothing to the instructions on this subject transmitted you in my letters of the 18th January and 9th ultimo.

I have again to remind you, that property seized for viola-
321 tion of the Revenue and Navigation laws, can be sold only in pursuance of a decree of condemnation by a Court of competent jurisdiction.

Very respectfully,
Your obedient servant,
W. M. MEREDITH,
Secretary of the Treasury.

JAMES COLLIER, Esq.,
Collector of the Customs, San Francisco, California.

"*Schedule No.* 10."

(Copy.)

TREASURY DEPARTMENT, OFFICE OF COMMISSIONER OF CUSTOMS,
June 12th, 1850.

SIR: I herewith transmit to you a list of official fees, charged agreeable to law, by the Collector of New York. If you have charged higher, or other fees, than those enumerated in the said list, you will please forward a statement, containing the names of the persons, and the amount paid to you by them.

322 A demand has recently been made by the Charge d'Affaires of Denmark, through the Secretary of State, for the return of tonnage and light dues, amounting to $167 $\frac{12}{100}$, and for a fee for one passage for blanks, and the administering two oaths, amounting to $3, and, in all, to $170 $\frac{12}{100}$, which were illegally exacted by you, of the Danish barque Waldemar, M. S. Schmidt, Captain.

The list of officers of your District, including yourself, appears from the Treasury books, to be as follows:

	Per annum and Fees.
James Collier, Collector, San Francisco, at	$1,500
Alexander Irvine, Deputy Collector, Monterey,	1,000
William Terrill, " " San Diego,	do.
323 Alexander Bradford, Dep. Coll., Eilay and Colorado,	do.
Edwin D. Collier, Dep. Collect. and Inspector, San Francisco,	1,095
John Carpenter, Inspector,	do.
Thomas Harvey, do.	do.
Augustus Richards, do.	do.
Amos Adams, do.	do.
John A. Collier, do.	do.
Abraham Kintzing, Jr., do.	do.

Only five of whom appears in your Abstract for the quarter ending 31st March, 1850; and of the other six, it does not appear, by the records of the Department, that their successors have been appointed.

Your Abstract contains a number on list, some of whom,
324 except the five above-mentioned, appear to have been authorized by law, or by the approval of the Secretary of the Treasury.

I am, very respectfully,
Your obedient servant,
C. W. ROCKWELL,
Commissioner of Customs.

JAMES COLLIER, Esq.,
Collector, San Francisco, California.

P. S.—You will please send a copy of your Monthly Return to the Treasurer of the United States, and the draft paid to him.

"*Schedule No.* 11."

(Copy.)

TREASURY DEPARTMENT,
March 26, 1850.

SIR: The case of the British bark "Collooney," alleged to have been seized by you, with her cargo, for a violation of the
325 Navigation laws of 1817 (referred to by yourself, in your letter of the 29th December last), has been brought before the Department, at the instance of the owners of that vessel.

From the case, as stated by yourself, it would seem that the vessel in question took on board, within the territories of the United States, a part of her cargo, and completing the same at a British port, or place, proceeding thence to San Francisco, where both vessel and

cargo were seized for thus illegally participating on the coasting trade.

Assuming the accuracy of this statement of facts, I have
326 to remark, that the voyage from the port or place within the United States, where the "Collooney" took in a part of her cargo to San Francisco, the port of importation (though she may have visited, in the interval, British ports or places to complete her loading), must be regarded as continuous, so as to render the importation of the merchandise, so taken from the Territory of the United States, and brought through an intermediate foreign port or place to San Francisco, an importation in a foreign vessel, "from one port of the United States to another port of the United States," within the prohibition of the 4th section of the Navigation
327 law of 1st March, 1817. The merchandise, so imported from a port or place, within the United States, to San Francisco, is liable to forfeiture, but not the vessel in which the importation may have been made, nor that part of her cargo brought from a port or place in the British possessions.

The seizure of the "Collooney" was, therefore, upon the facts stated, unauthorized and illegal, and the vessel should be at once surrendered to the owners, or authorized agent, together with that portion of her cargo (if such was seized) as was taken on
328 board that vessel within the British possessions, on payment of the proper duties and charges. If the party desires to have the forfeiture of the merchandise, brought in the "Collooney" "from a port or place in the United States to San Francisco," remitted, the case must be submitted to the Department in the mode prescribed in the remitting law of 1797.

It is represented to the Department that you have seized French vessels bringing to your port the products or manufactures of other countries than France, as well as the imports themselves.
329 You have heretofore been advised that such importations were legal, and you will promptly surrender, in all such cases, both the vessels and cargoes, on payment of the proper duties and charges, to the parties entitled to receive the same.

I cannot close this communication without stating, that in applying the provisions of the 4th section of the Navigation law of 1st March, 1817, it is unaccountable, and a matter of serious regret to this Department, that you should have overlooked the fact, that under the terms of that section, the "Collooney" was not liable to forfeiture.

330 In view of such errors, producing, as they do, serious individual loss, and subjecting this Department to reclamations and complaints of foreign powers, it becomes my duty to admonish you of the necessity of the utmost care, circumspection,

and judgment, on your part, in executing and enforcing the Revenue laws within your district.

Very respectfully, your ob't servant,
W. M. MEREDITH,
Secretary of the Treasury.

JAMES COLLIER, Esq.,
Collector of the Customs, San Francisco, Cal.

"*Schedule No.* 12."

(Copy.)

TREASURY DEPARTMENT,
March 20th, 1856.

SIR: I transmit herewith a copy of a letter, under date of the 30th January last, and its enclosure, from Mr. H. R. Kun-
331 hardt, of San Francisco, California, stating the fact of a seizure made by yourself of a quantity of flour, imported into your port from Mazatlan, Mexico, in the French bark "Abeilli."

You are referred to my communication to you under date of the 14th February last, on the subject of our commercial intercourse and relations with France and her dependencies, as established and regulated by existing laws and treaties; and you will perceive that, upon the facts stated in the papers enclosed, the importation of flour into your port from Mazatlan, in the "Abeilli," was legal.
332 Of course, in this, and in all other cases of a like nature, the property improperly seized must be promptly restored to the parties entitled to receive the same, on payment of the legal duties and charges.

Very respectfully, your ob't servant,
W. M. MEREDITH,
Secretary of the Treasury.

JAMES COLLIER, Esq.,
Collector of the Customs, San Francisco, Cal.

"*Schedule No.* 13."

(See House Doc. p. 50.)

A letter from the Superintendent of the Coast Survey to the Secretary of the Treasury, dated September 5th, 1849; marked "Schedule No. 13."

"*Schedule No.* 14."

(See House Doc. p. 51.)

The Secretary's reply thereto, dated September 27th, 1849; marked "Schedule No. 14."

"*Schedule No.* 15."

(See House Doc. p. 53.)

Instructions of R. J. Walker, Secretary of the Treasury, to Cap-

tain Fraser, of the Revenue Service, dated October 24th, 1848; marked "Schedule No. 15."

"*Schedule No.* 16."

(See House Doc. p. 56.)

Captain Fraser's Letter to the Secretary of the Treasury, dated November 6th, 1849; marked "Schedule No. 16."

("*Schedule No.* 17, *within.*")

(Copy.)

DEPARTMENT OF STATE,
WASHINGTON, March 23d, 1850.

MY DEAR SIR,—I herewith enclose, for your consideration, a note of M. Boislecompte, the French Minister, of the 21st instant, stating the seizure of French ships, with their cargoes, in California, by the Collector at San Francisco, for a violation of our Revenue laws, in the illegal importation of brandies, and making certain demands of the American Government in consequence of the seizure.

The letters of M. Depierris and General de la Hitte accompany this note.

The Minister of France waited on me to-day, at my Depart-
343 ment, and said, he should be most happy to transmit an answer to his application, by the next steamer, to his own Government. I replied, that I would cause his note to be laid before you immediately, and would send him your decision as soon as I should receive it. As, from his conversation, the matter contained in his note excites much interest in France, your earliest attention to the subject is most desirable.

Please return the notes with your decision upon the application.

I ought to add that I promised him, to invite your favorable consideration of his request; and assured him, that I had no
344 doubt you would bestow such consideration upon it as far as in your judgment it should seem consistent with your duty.

I am, my dear Sir,
Very truly yours,
JOHN M. CLAYTON.

HON. W. M. MEREDITH,
Secretary of the Treasury, U. S.

"*Schedule No.* 17."

(Translation of a note from the Minister Plenipotentiary of France.)

To the Honorable John M. Clayton, Secretary &c.

LEGATION OF FRANCE IN THE UNITED STATES,
WASHINGTON, March 21st, 1850.

SIR: The last accounts, received in France from California,

345 bring the information that the Custom House of San Francisco had recently adopted measures with regard to foreign commerce, which, under the circumstances attending them, have caused great derangements in the commercial operations of our merchants, with respect to those distant countries, and have excited the solicitude of the French Government.

According to the statement of the facts, in a remonstrance addressed by the Chamber of Commerce of Bordeaux to the Minister of Foreign Affairs, the Collector of Customs at San Francisco, limiting himself to the strict execution of the instructions which he had received from the Federal Government, seized, in November
346 last, on board of the French merchant ships, the St. Michel and Alcibiade, the brandies, which formed the whole or a part of the cargo, on the ground that these liquors were in cases or in casks, containing less than the minimum quantity fixed by the regulations.

The rigorous measures, adopted by the Collector of the Custom House, at San Francisco, towards these two vessels, appears to have been taken in consequence of the recommendations addressed to the collectors and officers of the American Custom Houses by the Secretary of the Treasury of the United States, in a circular
347 dated the 16th of July last; the object of which is to direct those agents to the strict execution of the general Act of March 2d, 1799, respecting duties on alcohol and spirituous liquors.

Undoubtedly, sir, neither the Government nor merchants of France, could raise any objection against the above-mentioned decision of the American Administration, if it had been applied and enforced only in the ports of the Union; or if, with the view of extending it to California, the Federal Government had delayed its execution for a reasonable time. But California had, from
348 the date of its acquisition by the United States to the moment of the application of the Act of March 2d, 1799, to it, enjoyed an exceptionable system, dictated by the necessity of favoring the introduction of articles of all kinds necessary for the supply of the numerous population of emigrants flocking to that country from all parts of the world. It was, therefore, natural to suppose, that, in consideration of this state of things, so entirely beyond the ordinary, the American Administration, if it should have thought proper immediately to extend the uniformity of its Custom
349 House regulations to California, would at least proceed with some consideration for the interests embarked on the faith of established precedents, and would not thus suddenly, without previous notice, put an end to a system of toleration, under which foreign merchants might, with entire good faith, have deviated from the conditions of their ordinary shipments of brandies and spirits for the other ports of the Union.

A letter from the Vice Consul of France, at San Francisco, how-

ever, informs me, that it was not until the 10th of November, that the Collector of the Custom House gave notice of the appli-
350 cation of the Act of the 2d March, 1799; and that one of the above-named ships had already, before the arrival of that Collector, paid his tonnage duties, and a portion of his Custom House duties.

The Vice Consul of France, moreover, informs me, that upon his remonstrances, and those of the French merchants, the St. Michel had been released, and he had afterwards agreed with the Collector, that the brandies which French vessels might bring under circumstances contrary to the laws of the Union, should be kept under seizure provisionally, until the decision of the Secretary of the Treasury could be obtained. This wise and proper arrangement
351 has not been observed, and not only have the St. Michel and Alcibiade, but also the Java, the Genyes, and the Suffern, which arrived afterwards, been seized and confiscated for similar contraventions of the law; and I am assured that the brandies brought by them have been sold. These acts of rigor are the more to be regretted, as the good faith of the captains of these vessels could not have been suspected, because the ship's papers specified the presence of the brandies, and the manner in which they were put up,
352 and they themselves had made a declaration of them to the authorities of the Union.

Another unfortunate circumstance has increased the difficulty of this state of things. Four French ships, the Edward, the Ceres, the Abiele, and the Louise Marie, entered San Francisco, after having sold parts of their cargoes on the way, in foreign ports, where they also took on board other articles of merchandise, which they brought for sale to San Francisco. The Captains of these vessels made their declarations in due form, and their papers, certified by the consuls of their nation, showed the facts of these sales and shipments
353 in the different ports in which they were made. These vessels, as well as their cargoes, were nevertheless confiscated, and were all advertised for sale at an early day by the Collector of the Custom House. I should here observe, specially with regard to these seizures and the sales which have probably been made in consequence, that various laws of the United States relating to Custom House duties, involve a mode of proceeding, applicable to all seizures and confiscations of merchandise, whereby the persons interested may and should have an appeal to the courts allowed them. The
354 Collector of the Custom House of San Francisco, has himself acknowledged this, in a letter, on the 10th of March last, to the Vice Consul of France, at that port, in which he expresses himself thus,—"the legality of such seizures will be determined by the judicial tribunals having jurisdiction over such cases." It is not easy to understand how the Collector could, after this, at his own pleasure order the sale of these vessels, and have refused to accede to the wise

and moderate proposition of the Vice Consul of France, at San Francisco, to keep the merchandise under seizure, until a decision
355 could be obtained from the Secretary of the Treasury, or a judgment from the Court. This refusal is the more to be regretted, as in the case of the vessels seized for contravention of the Act of March 1st, 1817, prohibiting the importation of foreign merchandise into the United States, under a flag other than that of the country from which it comes, an excuse, or rather a denial of legality, might be opposed to the pretension of the Collector of San Francisco.

In fact, this same Act of March 1st, 1817, excepts from
356 this prohibition, vessels belonging to foreign countries, which have not adopted regulations of a similar nature. Now, no prohibition of this kind exists in France, in regard to American vessels; on the contrary, merchandise brought from other countries than those of the Union by these vessels, are admitted on payment of an additional duty of ten per cent.; and the Consul General of France, at New York, assures me, that the same measure is daily applied at that port to French vessels importing merchandise brought from, and produced in countries foreign to France.

357 It will be easy for you, sir, to ascertain the correctness of these observations; and you will see the necessity of reforming the measures which have been thus taken, contrary to the just application of the laws of the two countries. I should add, that these measures have brought deplorable consequences upon French citizens who had no connection whatsoever with this question of right. Thus, the Collectors of the Custom House at San Francisco, seized not only the brandies supposed to be fraudulently entered, but alse the whole cargo of the vessels which brought them, and
358 the vessels themselves, so that the crews and passengers were left, and still remain without any resources, in a country so extravagantly dear. This anomalous state of things has been carried so far, that a French physician, whose letter I append to this note, has been prevented from exercising his profession, by the seizure, on board of the ship Edward, of the instruments, without which he could do nothing.

The seizure of the ships St. Michel and Alcibiades had already appeared to the Government of the French Republic, to be a very rigorous application of the orders of the Secretary of the Treasury, for the execution of the Act of March 2d, 1799, and I had
359 been charged to remonstrate against the seizure made on board of these two vessels. With that object, the Minister of Foreign Affairs of the Republic, has sent me a copy of the letter appended to this note, which had been addressed by him to the Minister of Commerce and of Marine. This letter, besides proving the intentions of the French Government to cause the legal provisions of the Government of the United States to be respected, moreover,

shows clearly by the dates mentioned in it, that the French merchants could not have been acquainted with the Secretary of the Treasury's circular of July 26th, at the time when they made their ship-
360 ment, and that their good faith is therefore not to be suspected. But the circumstances which have since occurred, and which I have had the honor to make known to you, have considerably aggravated this state of things, and they appear to me sufficient to authorize the further remonstrances which I find myself obliged to address to you. I have therefore the honor to ask of you,

1st. That the Collector of San Francisco may be especially instructed to suspend all seizure or sale of French vessels and of their cargoes, which may be under the circumstances above mentioned, until he shall have received orders from the Secretary of the
361 Treasury, and that he be positively required to ask for these orders, and to give an account of all the cases of this nature which have already occurred, before proceeding farther at his own discretion, and determining the question *ipso facto*, as he has done.

2d. Relative to the question of the brandies, that the Government of the United States will be pleased to examine the question, whether in consideration of the good faith of the shippers of the brandies which have been seized, and of its having been impossible for those shippers to have been acquainted with the measures adopted by the Government of the United States respecting California—
362 these articles of merchandise, or if they have been sold their value, should not be restored to the owners; and whether, before rendering the Act of March 2d, 1799, definitively executory in the ports of California, a period of time should not be fixed sufficient to allow the vessels which had left France, before they could have known the application of the act to that country, to land their cargoes there as formerly, upon payment of the duties under the American tariff upon those articles of merchandise, when imported in casks holding more than fifteen gallons.

3d. With regard to the vessels confiscated for contraven-
363 tion of the Act of March 1st, 1817, on account of merchandize brought from countries foreign to their flag, that these vessels and their merchandise be immediately restored, and that their merchandise be admitted on payment of an additional duty of ten per cent., if it be true that such is the rule authorized by the laws of the United States in reciprocity for what is done in France.

4th. That if in this latter case the Collector of the Custom House at San Francisco be found to have acted illegally, indemnification be allowed to the persons interested, for the damages which
364 they have sustained in consequence of the measures taken by that officer.

The notices which I have received of the departure from France, and of the expected arrival in California, of vessels under the same

circumstances with those which have been seized, render it necessary for me to insist upon speedy measures on this subject.

I flatter myself, sir, that the steps which I have the honor to take on this occasion, will be favorably received, in consequence of the sentiments of equity and good-will towards France, with which the Government of the United States appears to be animated;
365 and I shall consider myself particularly happy, if I should be enabled whilst rendering an account of my first relations with this Government, to transmit a new proof of those sentiments to the Government of the French Republic.

Accept, sir, the assurances of my high consideration.

SAIN DE BOISLECOMPTE.

"*Schedule No.* 18."

(Translation of a letter addressed by the Minister of Foreign Affairs of France to the Minister of Commerce and Marine.)

PARIS, January 17th, 1850.

MY DEAR COLLEAGUE:—I had the honor to communicate to you on the 21st of September last, the original and the translation of a Circular from the Secretary of the Treasury of the United
366 States, reminding the Collectors of the American Custom Houses that spirituous liquors cannot be introduced into the ports of the Union, except in casks containing at least ninety gallons.

As an exception to this legal provision, brandy is allowed to be imported in casks containing at least fifteen gallons. This circular may, perhaps, not have generally attracted the attention of our merchant vessels. A letter which I have just received from the Consul of the Republic at Philadelphia, and of which I here send you an extract, shows to what severe penalties our captains will expose themselves by neglecting to comply with the requisi-
367 tions which are thus to be again enforced. The evident good faith of Captain Estebe, the Commander of the Ship *Armantine*, and the slightness of the contravention committed by him, have induced the Philadelphia Custom Houses not to treat him rigorously on this occasion, though it is determined hereafter to apply the provisions of the law in the fullest extent. Now, as this would involve a penalty no less than the confiscation of the ship, we cannot take too much pains to make our ship owners understand the
368 nature of the recommendations contained in Mr. Meredith's Circular of the 26th of July last; and you will, no doubt, think proper to make it the subject of a notice to the public inserted in the principal newspapers of our seaports.

Accept, my dear Colleague, &c.

GEN. DE LA HITTE.

"*Schedule No.* 19."

(Translation of documents accompanying the French Minister's Note, of March 21st, 1850.)

To the Consul of France at San Francisco, California.

SAN FRANCISCO, January 26, 1850.

MR. CONSUL: The seizure of the Custom House of San Francisco of the French ship *Edward*, of Havre, and her whole cargo, falls upon me as a passenger, having on board of that vessel five boxes, and a wooden house, all shipped at Havre for my personal use, which the Collector of the Custom House has refused to allow me
369 to land, because *he has seized everything*. This seizure, which deprives me of articles indispensable for my establishment in California, and for the exercise of my profession as a physician, renders my situation very painful, and places serious obstacles in the way of my advancement.

I therefore, Mr. Consul, now avail myself of your authority to submit my complaint to the French Government, and to protest before you of this abuse of power on the part of the Collector of San Francisco, who persists in refusing me my five boxes and my house, notwithstanding my offer to pay every legal Custom
370 House duty.

I protest, above all, because I consider this refusal as an act of inhospitality, the hardness of which consists much less in the appearance of right, beyond which the Collector endeavors to entrench himself, than in a system of humiliating vexations towards the French, who thus find in California neither inviolability nor security for their vessels, nor protection for their persons.

Accept, Mr. Consul, &c., &c.

DEPIERRIS.

"*Schedule No.* 20."

(Copy.)

TREASURY DEPARTMENT,
March 25, 1850.

MY DEAR SIR: I have to acknowledge the receipt of your
371 letter of the 23d instant, transmitting a note and enclosures from M. Boislecompte, the French Minister, respecting the seizure of certain mentioned French vessels, with their cargoes, in California, by the Collector of the Customs at San Francisco, for violation of our Revenue and Navigation laws. In regard to the seizures mentioned for violation of the 103d section of the general collection act of 2d March, 1799, prohibiting the importation of distilled spirits, except in casks or vessels of prescribed capacity, it is to be observed that this law has been uniformly enforced, and as
372 the act of Congress, extending the Revenue laws over California, was passed on the 3d of March last, and the acts of

the Collector, now referred to by Mr. Boislecompte, occurred in the November following, it is conceived that no reasonable ground of a want of notice of the extension of said Revenue laws over California can be taken by foreign shippers.

The Circular of the 26th July, 1849, to which reference is made, was issued, as appears upon its face, in consequence of representations made to the Department that, at some of our ports, an erroneous practice prevailed of admitting gin and other distilled spirits in cases or vessels of less capacity than authorized by the section of the act of 1799, before mentioned. This was found to be
373 particularly the case at some of our ports on the Canadian frontiers, and the Circular was simply intended to correct an erroneous practice not sanctioned by law at those ports, as well as at any others where a similar practice might prevail. It has been, and is the usage of the Department to remit forfeitures incurred for violations of the 103d section of the law before referred to, in all cases of a bona fide nature, and in the absence of any intention to violate the law, and on being advised of seizures made under this law by the Collector of San Francisco, I instructed that officer, under the date of the 15th of January last, and indicated the proper course to be pursued by parties, whose property had been
374 seized, to bring their cases up, in conformity with law, to enable the Department to exercise its remitting power. So far as anything is known of the laws referred to, they will probably fall within the usage of the Department above mentioned, and the penalties be remitted without difficulty. In order to expedite the proceedings in these cases, I again gave instructions to the Collector, under date of the 9th of the present month, a copy of which is herewith transmitted. In regard to the cases mentioned, of seizures for a supposed contravention of our Navigation act of the 1st March, 1817, where French vessels imported into California articles of merchandise, being of the production of countries other than
375 France, I would state that, upon the Department being advised of such seizures, the Collector of San Francisco was instructed, on the 14th of February, ultimo, that, in consideration of subsisting commercial relations between the United States and France, such trade, on the part of French vessels, was legal, and subsequently, viz., on the 20th instant, that officer was specially instructed in the case of the bark "Abeille," as well as in all other cases of a like nature, promptly to restore the property, under confiscation, to the parties entitled to receive the same, on payment of the proper duties and charges.

The papers accompanying your communication are returned herewith. I am, my dear sir, very truly yours,

W. M. MEREDITH,
Secretary of the Treasury.

376 Hon. JOHN M. CLAYTON,
Secretary of State.

"*Schedule No.* 21."

(New Series—No. 13.)

Circular to Collectors and other Officers of the Customs.

TREASURY DEPARTMENT,
July 26th, 1849.

It is represented to this Department, that, in some of the ports of the United States, the erroneous practice prevails of admitting the importation of gin, and other distilled spirits, in cases or vessels of less capacity than ninety gallons.

By the provision of the 103d section of the General Collection Act of 2d March, 1799, the importation of any distilled spirits (arrack and sweet cordials excepted), unless in casks or ves-
377 sels of the capacity of ninety gallons, wine measure, and upwards, subjects the said spirits to forfeiture, together with the ship or vessel in which it is imported. The Act of 2d March, 1827, makes a further exception, as it relates to brandy, admitting that article in casks of a capacity not less than fifteen gallons. But, with this single modification, the prohibiting provision of the Act of 1799, above cited, remains unrepealed, and must therefore be strictly enforced.

It is due to the importers, within those Collection Districts
378 in which the erroneous practice referred to has existed, that they be immediately apprised by a public notice from the Collector's Office of the views of this Department in regard to importations of the article in question.

W. M. MEREDITH,
Secretary of the Treasury.

"*Schedule No.* 22."

The United States in general account current with James Collier, Collector of Customs, for the District of Upper California, commencing on the 12th of November, 1849, and ending on the 31st of December, 1849.

Dr.—Disbursements.

To Inspectors, Clerks, and others, employed as per abstract, ...	No. 1,	$21,355	70
379 Contingent expenses, as per abstract, .	2,	2,611	34
Revenue boats, ...	3,	1,511	97
Revenue Cutter Lawrence, . . .	4,	12,175	88
Balance, of cash on hand, carried to new account,		184,397	93
		$222,052	82

2934

Cr. Receipts.

By Amount of duties paid on merchandise imported in American vessels, as per abstract, ...	A.	$20,132	04
Amount of duties paid on merchandise imported in foreign vessels, as per abstract,	B.	181,303	18
380 Amount received from vessels for Inspectors' wages, as per abstract, ...	C.	5,600	00
Amount received for tonnage and light dues during the quarter, per	D.	13,702	62
Amount received for hospital money, as per abstract, ...	E.	1,314	98
		$222,052	82

CUSTOM HOUSE, SAN FRANCISCO,
January 1st, 1850.

Collector's Office.

I certify, that the above is a true account current.

J. COLLIER,
Collector.

The United States in General Account current with James Collier, Collector of the Customs, for the District of Upper California,
381 commencing on the 1st of January, 1850, and ending on the 31st of March, 1850.

Dr. Disbursements.

To Clerks, Inspectors, and others, as per abstract, ...	No. 1.	$45,813	33
Revenue Cutter Lawrence, per abstract,	2.	5,425	44
Revenue Boat Argus, do.	3.	2,603	94
Revenue boats, do.	4.	2,789	85
Treasury of the United States, do.	5.	4,500	00
Contingent expenses, do.	6.	18,472	69
382 Fuel and lights, do.	7.	894	46
Balance of cash on hand, carried to new account, April 1st, 1850, . . .		407,714	08
		$485,213	79

Receipts. Cr.

Balance due the United States, January 1st, 1851,		$184,397	93
Amount of duties paid on mdse. imported in foreign vessels, as per abstract, ...	A	237,164	01
Amount of Duties paid on mdse. imported in American vessels, as per abstract, . .	B	31,737	65

	Received from vessels for Inspectors' wages as per abstract, ...	C	$16,402 00
383	For light dues during the quarter, . .	D	7,150 50
	Tonnage, ...	E	3,650 96
	Hospital money, ...	F	4,690 74
	Storage, ...	G	20 00
			$485,213 79

COLLECTOR'S OFFICE, San Francisco, April 1st, 1850.

J. D. CARR,
Deputy Collector.

I certify, on honor, that the above exhibits a true account of all the receipts and expenditures by me in the quarter ending March
383½ 31st, 1850, and that the balance due the United States is now in my hands.

The United States in Account with James Collier, Collector of the Customs for the District of Upper California, for the quarter ending June 30th, 1850, under Official Bond, dated 1849.

Dr.		Abstract.	
	To amount of disbursem'ts to the Treas. of the U. S.	1.	$291,500 00
	Ditto Inspectors, Weighers, and Gaugers, &c.	2.	46,533 00
384	Ditto Contingent expenses, . . .	3.	17,815 10
	Ditto Fuel and lights, ...	4.	294 38
Ditto	Incidental expenses, . . .	5.	6,497 50
Ditto	Marine Hospital Fund, . . .	6.	820 87
Ditto	Tonnage and light dues refunded, .	7.	4,028 80
Ditto	Revenue Cutter Lawrence, . .	8.	5,731 01
Ditto	do. Boat Argus, . . .	9.	237 00
Ditto	do. Boats, ...	10.	2,861 37
385 Ditto	On account of appraisements, . .	11.	194 65
Ditto	do. seized vessels and mdse., .	12.	31,835 02
	Balance due the United States, . .		583,914 39
			$992,263 09

Cr.

	By balance due the U. States, April 1st, 1850,		$407,714 04
386	Amount of duties on imports in American vessels as per abstract, . . .	A.	90,819 35
	Amount of duties on imports in foreign vessels as per abstract, . . .	B.	328,386 70
	Amount of duties on tonnage of foreign vessels as per abstract, ...	C.	4,014 72

	Amount of duties on light money on foreign vessels as per abstract, ...	D.	1,378 50
	Amount of Hospital money rec'd as per abstract,	E.	5,617 42
	Fines, penalties, and forfeitures, . .	F.	7,921 59
387	Receipts for Inspectors' fees, . . .	G.	15,160 00
	Proceeds of sales of seized mdse., . .	H.	61,649 19
	Special deposits for unascertained duties,	I.	72,601 54
			$992,263 09

Custom House, San Francisco, July 1st, 1850.

J. COLLIER,
Collector and Disbursing Agent.

The United States in Account Current with James Collier, Collector
388 of the Customs for the Upper District of California, for the quarter ending September 30th, 1850, under his Official Bond, dated, 1849.

	Dr.	Abstract.	
To amount of disbursem'ts to the Treas. of the U. S.		1.	$7,000 00
Do.	Inspectors, Weighers, and Gaugers, &c.	2.	51,352 75
Do.	Special deposits, ...	3.	162,450 75
Do.	Incidental expenses, ...	4.	26,083 75
Do.	Contingent do.	5.	12,481 65
Do.	Fuel and lights, ...	6.	179 64
Do.	On account of appraisements, . .	7.	2,213 50
Do.	To the Revenue Cutter Lawrence, .	8.	9,232 56
Do.	Do. Bark Polk, . .	9.	3,545 00
389 Do.	Do. Boats, . . .	10.	2,700 00
Do.	Marine Hospital fund, . . .	11.	3,072 19
Do.	For tonnage and light house dues refunded, . . .	12.	1,823 72
Do.	Duties, do. .	13.	1,133 40
Do.	On account of seized merchandise, .	14.	38 00
Due the United States, September 30th, 1850,			1,007,641 71
			$1,290,948 62

	Cr.	Abstract.	
390	By balance due the United States, July 1st, 1850, ...		383,914 39
	By Amount of receipts for duties from foreign vessels, ...	A.	344,265 83
	Amount of receipts for duties from American vessels, ...	B.	119,984 65
	Amount of special deposits for unascertained duties, ...	C.	180,794 20
	Amount of receipts for Inspectors' fees, .	D.	11,226 00
	Amount of hospital money received, .	E.	6,173 87

391 Amount of duties on tonnage of foreign vessels,	F.	4,550	42
Amount of light money on tonnage of foreign vessels,	G.	1,314	00
Amount of receipts for storage of foreign vessels,	H.	1,298	36
Amount of fines, penalties, and forfeitures,	I.	62	50
Amount of receipts from sales of seized mdse.	J.	37,201	62
" " " unclaimed "	K.	77	28
" " for Lighterage,	L.	85	50
		$1,290,948	62

392 CUSTOM HOUSE, District of Upper California, San Francisco, September 30th, 1850.

J. COLLIER,
Collector and Disbursing Agent.

The United States in account current with James Collier, Collector of the Customs for the District of Upper California, for the Quarter ending December 31st, 1850, under official bond, dated 1849.

Dr.	Abstract.		
To the amount of disbursements to the Treasury of the United States,	1.	400,100	00
Amount of disbursements to the Inspectors, Weighers, Gaugers, &c.,	2.	55,696	17
393 Amount of disbursements to the special deposits,	3.	205,154	35
Amount of disbursements to incidental expenses,	4.	2,229	50
Amount of disbursements to contingent expenses,	5.	10,689	83
Amount of disbursements on acct. of fuel and lights,	6.	169	20
Amount of disbursements on acct. of appraisements,	7.	2,968	00
Amount of disbursements to Revenue Brig Lawrence,	8.	4,741	36
Amount of disbursements to Revenue Bark Polk,	9.	4,586	07
394 Amount of disbursements to Revenue boats,	10.	3,021	50
Amount of disbursements to Marine Hospital fund,	11.	5,004	00
Amount of disbursements to Revenue Cutter Argus,	12.	1,395	84
Amount of disbursements on acct. of Public Warehouses,	13.	934	50

	Amount of disbursements on acct. of duties refunded,	14.	225	30
	Amount of disbursements on acct. of unclaimed merchandise,	15.	77	28
395	Balance due the United States, Dec. 31st, 1850,		1,134,329	98
			$1,831,322	86

	Cr.	Abstract.		
	By balance due the United States, Oct. 1st, 1850,		$1,007,641	71
	Amount of receipts for duties from foreign vessels,	A.	398,672	99
	Amount of receipts for duties from American vessels,	B.	148,976	25
	Amount of receipts for special deposits for unascertained duties,	C.	247,028	15
396	Amount of receipts for Inspectors' fees,	D.	13,458	00
	" hospital money received,	E.	4,915	66
	Amount of duties on the tonnage of foreign vessels,	F.	6,104	14
	Amount of light money on the tonnage of foreign vessels,	G.	1,078	50
	Amount of receipts for storage,	H.	823	00
	" " from sales of seized mdse.	I.	2,525	46
	" " " public warehouses,	J.	74	00
397	" " " unclaimed mdse.,	K.	25	00
			$1,831,322	86

CUSTOM HOUSE, District of Upper California, San Francisco, Dec. 31st, 1850.

J. COLLIER,
Collector and Disbursing Agent.

The United States in account current with James Collier, Collector of the Customs for the District of Upper California, from the 1st to the 14th January, 1851, under official bond, dated 1849.

	Dr.	Abstract.		
	To amount of disbursements to the Treasury of United States,	1.	$80,500	00
398	Amount of disbursements to Inspectors, Weighers, Gaugers, &c.	2.	5,739	00
	Amount of special deposits,	3.	23,759	15
	" incidental expenses,	4.	45,010	28
	" contingent "	5.	168,793	55
	" on acct. of appraisements,	6.	192	50
	" to Revenue Bark Polk,	7.	144	13
	" " Cutter Argus,	8.	83	30

Amount on acct. of public Warehouses,		9.		35 00
" " seized mdse.		10.		47,352 33
399 " " fines, penalties, and forfeitures,		11.		1,150 00
Suspended acct. with A. Randall, Deputy Collector at Monterey,				8,110 29
Balance due the United States, and paid over this date to my successor, T. Butler King, as per his receipt,				893,705 53
				$1,274,575 06

Cr. Abstract.

By balance due the United States, Dec. 1st, 1850,			$1,134,329 96
400 Amount of receipts for duties from foreign vessels,	A.		60,524 63
Amount of receipts for duties from American vessels,	B.		18,047 19
Amount of special deposits for unascertained duties,	C.		36,650 40
Amount of receipts for Inspectors' fees,	D.		3,346 00
" hospital money received,	E.		710 39
" duties on the tonnage of foreign vessels,	F.		295 97
Amount of light money on the tonnage of foreign vessels,	G.		142 75
401 Amount of receipts for storage,	H.		968 50
" receipts from sales of seized mdse.	I.		18,426 27
Amount of receipts from public warehouses,	J.		133 00
" fines, penalties, and forfeitures,	K.		1,000 00
			$1,274,575 06

CUSTOM HOUSE, San Francisco, January 14th, 1853.
J. COLLIER,
Collector and Disbursing Agent.

TREASURY DEPARTMENT,
FIRST AUDITOR'S OFFICE, January 13th, 1851.

402 I have examined and adjusted the accounts of James Collier, Collector of the Customs for the District of Upper California, in the State of California, under official bond dated 3d April, 1849, commencing 12th November, and ending 31st December, 1849, and find that he is chargeable, viz.:

To duties on merchandise, ... $201,435 22

Tonnage duty and light money, . . .	$13,702 62
Marine hospital money collected, . . .	1,333 28
(Dollars)	216,471 12

403 I also find that he is entitled to credit, viz.:

By payments to Inspectors, &c., . . .	$8,419 00
By contingent expenses, ...	5,796 72
Disbursements in relation to appraisements, .	513 33
Ditto on account of Revenue cutters, . . .	7,403 60
Ditto on account of Revenue boats, . . .	1,511 97
Store account, ...	124 00
Collector's salary from 12th November to 31st December, 1849, ...	135 87
404 Cash paid Alexander V. Frazer, Commanding United States Revenue Brig Lawrence, with which said Frazer will be charged and held accountable, ...	4,610 58
And that the balance due the United States, on the first day of January, 1850, amounted in cash on hand to, ...	187,956 05
(Dollars)	216,471 12

As appears from the statement and accounts herewith transmitted for the decision of the Commissioner of the Customs thereon.

T. L. SMITH,
Auditor.

To C. W. ROCKWELL, Esq.,
Commissioner of Customs.

Balance brought down, . .	$187,956 05
405 Deduct salary of Collector, short credited, .	67 93
Adjusted balance due the United States, .	187,888 12

OFFICE OF COMMISSIONER OF CUSTOMS.

Admitted and certified, January 24th, 1851.

C. W. ROCKWELL,
Commissioner of Customs.

TOWNSEND HAINES, Esq.,
Register of the Treasury.

The balance due the United States for his account ending 31st December, 1849, is, ...	184,397 93
Add payments to Inspectors, &c., Abstract No. 1, viz.:	
406 The following sums, charged by him for payments to officers for time prior to entering on the duties of their office—Disallowed.	

A. Kitzing, as Inspr. (Vou. No. 4) from 1st May to 12th October, 1849, . . 495 00
Jno. A. Collier, as Inspr. (Vou. No. 6) from 3d April to 11th Nov., 1849, . . . 669 00
E. D. Collier, as Dy. Clk. (Vou. No. 7) from 3d April to 11th Nov., 1849, . . . 608 33
1,772 33

The following sums, charged by him as paid to officers in more than one capacity for same time—Disallowed; that commanding the highest rate of compensation, admitted.

407 A. Bartol, as Inspr. (Vou. No. 40) from 9th to 30th Dec., 1849 (allowed as storekeeper), . . . 88 00
Abraham Kitzing, as Inspr. (Vou. No. 82) from 12th to 30th Nov., 1849, (allowed as appraiser), ... 76 00
E. D. Collier, as bookkeeper, (Vou. No. 172) from 12th Nov. to 31st Dec., 1849, (allowed as Cashier), . . 326 66
490 66

Amount charged by him as paid Joseph Adams, Jr., as Weigher and Gauger (Vous. Nos. 46
408 and 90) from 12th Nov. to 31st Dec., 1849—Suspended for want of proper returns of fees, . . . 250 00
Amount charged by him as paid Jas. Collier, Collector (Voucher No. 8), ... 1,000 00
Less amount allowed in this statement for salary, from 12th Nov. to 31st Dec., 1849, being $\frac{50}{92}$ of a quarter at $1500 per annum, . . . 203 80
796 20 3,309 19

Amount charged by him in Abstract of "United
409 States Revenue Service," as paid Lieut. J. S. S. Chaddock, for Septr., Oct., and Nov., 1849—

Disallowed; paid as allotment at New York, .	180 00
Abstract of contingent expenses—Error in addition of Jas. Adams's, Jr. bill (Vou. No. 2) $219 95, instead of $218 95—Difference, ...	1 00
	$187,888 12

Treasury Department, First Auditor's Office, Jan. 11, 1851.
W. H. MILLER.

Office of Commissioner of Customs, January 24, 1851.
410 J. R. McCORKLE.

No. 11,357.

TREASURY DEPARTMENT, FIRST AUDITOR'S OFFICE,
January 14th, 1851.

I have examined and adjusted the accounts of James Collier, Collector of the Customs for the District of Upper California, in the State of California, under official bond, dated 3d April, 1849, commencing 1st January, and ending 31st March, 1850, and find that he is chargeable, viz.:

To balance of his account ending 31st December, 1849, ...		$187,888 12
	(Per Report No. 11,353.)	
411	Duties on merchandise, ...	268,901 66
	Tonnage duty, ...	4,468 50
	Extra tonnage duty on Russian vessels, . .	336 96
	Light money, ...	5,996 00
	Marine Hospital money collected, . . .	4,710 74
	Store account, ...	20 00
	Dollars,	472,321 98

I also find that he is entitled to credit, viz.:

By	payments to Inspectors, &c., ...	$19,914 00
	Contingent expenses, ...	12,610 48
	Disbursement in relation to appraisements, .	1,200 00
412	Ditto on account of Revenue cutters, . .	5,163 44
	Ditto on account of Revenue boats, . .	5,393 79
	Store account, ...	360 00
	Collector's salary, ...	375 00
And that the balance, due the United States on the 1st day of April, 1850, amounted, in cash on hand, to		427,373 20
	Dollars,	472,389 91

As appears from the statement and accounts herewith transmitted for the decision of the Commissioner of the Customs thereon.

T. L. SMITH,
Auditor.

413 To C. W. ROCKWELL, Esq.
Commissioner of Customs.

Auditor's balance brought down, . .		$427,373 20
Deduct, balance, 1st January, 1850 (over debited),		67 93
Adjusted balance due the United States,	(Dollars)	427,305 27

OFFICE OF COMMISSIONER OF CUSTOMS.

Admitted and certified, May 2d, 1851.

C. W. ROCKWELL,
Commissioner of Customs.

TOWNSEND HAINES, Esq.
Register of the Treasury.

The balance due the United States, per his account, ending 31st March, 1850, is . . .			$404,714 08
414 Add amount of differences, per last statement, ...	$3,490 19		
Less amount credited in this statement for Collector's salary, . . .	375 00		
			3,115 19
Add payments to Inspectors, &c., viz.			
Amount charged by him, as paid Joseph Adams, Jr., as weigher and gauger (Vous. Nos. 46, 139, and 118), suspended for want of proper returns of fees, ...	450 00		
Amount charged by him, as paid E. D. Collier, as book-keeper for January, 1850 (Vou. No. 107), disallowed, —paid, for same time, as cashier, ...	200 00		
415 Amount charged by him, as paid John A. McDowell, as Insp'r at San Diego, from 1st November, 1849, to 6th 1850 (Vou. No. 265), . . .	504 00		
Less amount allowed in this statement, from 12th November, 1849 (the day on which the office was opened, at San Francisco), to 6th March, 1850, —115 days, at $4 per day, . .	460 44		
			694 00

Contingent expenses, viz.:

Amount charged by him, as paid Thomas G. Wells (Vou. No. 37), for rent of Custom house, for February and March, 1850: Disallowed per letter of the Secretary of the Treasury, dated 11th April, 1850, ——— 14,000 00

Add disbursements for Revenue Cutter Lawrence, viz.:

Amount charged by him, as paid M. W. Lee, as Surgeon, for the months of January, February, and March, 1850 (Vous. Nos. 7, 12 and 13), . 450 00

Less amount allowed per letter of the Secretary of the Treasury, to Captain A. V. Frazer, of 24th October, 1848, being $50 per month, and one ration per day at twenty cents per ration, ... 168 00

——— 282 00

Amount prematurely charged by him in this account as paid to "Treasurer of the United States,"—

Drafts not drawn until 2d quarter, . ——— 4,500 00

Dollars, 427,305 27

Treasury Department, First Auditor's Office, January 13th, 1851.
M. H. MILLER.

Office of Commissioner of Customs, May 2d, 1851.
J. R. McCORKLE.

No. 11,402.

TREASURY DEPARTMENT, First Auditor's Office, February 4th, 1851.

I have examined and adjusted the accounts of James Collier, Collector of the Customs for the District of Upper California, in the State of California, under official bond, dated 3d April, 1849, commencing 1st April and ending 30th June, 1850, and find that he is chargeable, viz.:

To balance of his account, ending 31st March, 1850,
per Report No. 11,357, ... $427,305 27
Duties on merchandise, ... 419,206 05
Tonnage duty, ... 4,014 72
Light money, ... 1,378 50

Fines, penalties, and forfeitures,			7,921 59
Net proceeds of sales of seized goods,			59,659 19
Excess of deposits for unascertained duties,			87,186 09
Marine Hospital money collected,			5,634 11
	Dollars,		1,012,305 52

I also find that he is entitled to credit, viz.:

By payments to inspectors, &c.,			$22,168 00
Contingent expenses,			17,286 82
420 Disbursements in relation to appraisements,			1,766 31
Ditto on account of Revenue cutters,			5,266 30
Ditto on account of Revenue boats,			3,098 37
Store account,			364 00
Tonnage duty and light money received in 4th quarter, 1849, refunded,	$720 96		
Tonnage duty received in the 1st and 2d quarters,	582 84		
Light money,	2,723 00		
			4,026 80
421 Salary of the Collector,			375 00
Amount of the following warrants in favor of the Treasurer, viz.,			
No. 185, drafts, dated 30th September, 1850,	191,500		
No. 195, drafts, dated 14th June, 1850,	104,500		
			296,000 00
And that the balance due the United States on the first day of July, 1850, amounted in cash on hand to,			662,027 60
	Dollars,		1,012,379 20

422 As appears from the statements and accounts herewith transmitted for the decision of the Commissioner of the Customs thereon.

M. H. MILLER,
Acting Auditor.

To C. W. ROCKWELL, Esq.,
Commissioner of Customs.

Deduct balance due the U. States 1st April, 1850, over debited,	$67 93		
Proceeds of sale of seized goods over debited,	5 75		
			73 68
Adjusted balance due the U. States,		Dollars,	661,953 92

OFFICE OF COMMISSIONER OF CUSTOMS.

Admitted and certified, May 6th, 1851.

C. W. ROCKWELL,
Commissioner of Customs.

423 TOWNSEND HAINES, Esq.,
Register of the Treasury.

The balance due the United States per his account ending 31st March, 1850, is, ...		$583,914 39
Add amount of difference per last statement less $375 for Collector's salary, and $4500 for Treasury drafts paid, credited in this statement, . .		17,716 19
Abstract of disbursements on account of seized vessels and merchandise, viz.,		
The following sums charged by him per Ship Edward, suspended for explanation; the charges		
424 appearing excessive as expenses attending one cargo.		
W. C. Nyle for lighterage, . .	$5018 65	
W. Webster " storage, . .	9000 00	
Glen & Co. " ditto, . . .	6953 08	
W. C. Nye " breaking bulk, &c.,	1000 00	
	21,971 73	
The following sums charged by him per Brig Lala, suspended for explanation, the charges appearing excessive as expenses attending one cargo; and also for return of proceeds of sale.		
W. C. Nye for lighterage, . .	1321 95	
Glen & Co. " storage, . .	5987 54	
	7310 49	
425 Amount charged as paid J. James as cook on board Bark Joseph Albino, disallowed, ...	128 00	
	29,410 22	601,630 58
The following sums charged by him, suspended for returns of proceeds of sale.		
Amount brought forward,	$29,410 22	$601,630 58
Faulkner & Leland for advertising for Brig Pearl,	$2 00	
Ditto. " Ship Ceres,	2 00	
Ditto. " Brig Lala,	2 00	

	Ditto. for Brig Ocean,	2 00		
426	Scoffey & Kelly, &c., Brig Lala,	194 00		
			202 00	
	J. W. Webster, for storage per Brig Ebenezer,	32 00		
	George Rees, for lighterage per Ship Courier De Tahitte,	135 00		
	Glen & Co., for storage per Ship Blakely,	1 88		
	Patrick Langan, for hauling per Ship Ebenezer Archer,	30 00		
	George Rees, for lighterage per Brig Dorset,	30 00		
	Lyman Moury, for hauling per Bark Cornwell,	4 00		
			$232 80	$29,845 02
	Amount charged by him in abstract of tonnage and light money refunded for Mexican Brig Dos Amigos,		97 00	
427	Amount credited by him as received Jan. 23, 1850,		95 00	
				2 00
	Amount short credited by him for excess of deposits received, being the amount of abstract of excess of deposits refunded; in addition to amount returned by him as "remaining unsettled." The Collector should credit the whole amount received, and will obtain credit for amount paid, upon furnishing an abstract thereof, in detail, supported by proper vouchers,			$14,584 55
	Disbursement for Revenue Cutter Lawrence, viz.,			
	Amount charged as paid M. W. Lee, as Surgeon, for the			
428	months of April, May, and June, 1850 (vouchers Nos. 6, 10, and 17),	450 00		
	Less amount allowed by Secretary of the Treasury, per letter to A. V. Frazer, of			

24 October, 1848, being $50 per month, and one ration per day, at 20 cents per ration,	168 20		
		$281 80	
Amount charged by him as paid A. V. Frazer, as Captain, for the months of May and June, 1850 (Vou. No. 15),			
Disallowed, the same having been paid in New York,			
429 by assignment of Capt. Frazer,		199 60	
			$481 40
Payments to Inspectors, &c.,			
The following sums charged by him for payments for time prior to 12 Nov. 1849, the day on which the office was opened at San Francisco:			
James S. Bailey, as Inspector (Vou. No. 12), from 1 to 11 Nov. 1849, inc.,	44 00		
Daniel Barbee, 49 " " " "	44 00		
E. T. Tremaine, 50 " " " "	44 00		
		$132 00	
430 Amount charged by him as paid A. H. Wyley, as Inspector, for April, 1850. Suspended for want of Vouchers,		$120 00	
			$252 00
Disbursements on account of contingent expenses, viz.,			
Amount charged by him as paid Thomas G. Wells for rent of Custom-house, for April and May, 1850 (Vous. Nos. 13 and 33).			
431 Disallowed per letter of the Secretary of the Treasury, dated 11 April, 1850,	$14,000 00		
Amount charged by him as paid William Meyer and others, for "sundry persons' assistance" during the fire of June 14, 1850			

(Vou. No. 62). Suspended for want of receipt,	337 50	
		$14,337 50
Amount charged by him as "Amount of disbursements to Marine Hospital fund," not yet covered by warrant,		820 87
		$661,953 92

NOTE.—The Collector is requested to furnish auctioneer's ac-
432 count of sales, in all cases entered in his "Abstract of sales of merchandise seized and sold," excepting those of the Bark Rocher De St. Malo, and Ship Valiant, which only are received.

TREASURY DEPARTMENT,
FIRST AUDITOR'S OFFICE, February 1st, 1851.
M. H. MILLER.

OFFICE OF COMMISSIONER OF CUSTOMS,
May 6th, 1851.
J. R. McCORKLE.

No. 11,593.

Treasury Department,
FIRST AUDITOR'S OFFICE, April 9, 1851.

I have examined and adjusted the accounts of James Collier, Collector of the Customs for the District of Upper California, in the State of California, under official bonds, dated 3d April,
433 1849, commencing 1st July, and ending 30th September, 1850, and find that he is chargeable, viz.:

To balance of his account, ending 30th June, 1850, per Report, No. 11,402,		$661,953 92
Duties on merchandise,		464,250 48
Tonnage duty,		4,550 42
Light money,		1,314 00
Marine Hospital money collected,		6,223 07
Special deposits for unascertained duties,		180,794 20
434 Fines, penalties, and forfeitures,		62 50
Proceeds of sales of seized goods,		36,848 12
Proceeds of sales of unclaimed merchandise,		77 28
Storage received,		1,298 36
Cash paid him by C. W. Lawrence, late Collector of New York, per order of the Comptroller of the Treasury, dated 3d April, 1849, for which said Lawrence has received credit per Report, No. 10,186,		6,500 00
Dollars,		1,363,946 03

435 I also find, that he is entitled to credit, viz.:

By payments to inspectors, &c., . . .		$28,854 00
Disbursements for Revenue cutters, . .		10,534 06
Ditto, for Revenue boats, . .		2,700 00
Ditto, in relation to appraisements, . .		986 50
Contingent expenses, ...		26,177 79
Tonnage and light money refunded, . .		1,725 16
Duties on merchandise refunded, . .		1,133 40
Store account, ...		368 00
Salary of the Collector, ...		375 00
436 Amount of the following warrants, in favor of the Treasurer, viz.:		
No. 128, drafts, dated 14th December, 1850, . .	$7,000 00	
" 6, M. H. " 4th February, 1851, . . .	3,931 99	——10,931 99
And, that the balance due the United States, on the first day of October, 1850, amounted in cash on hand, to . .		1,280,160 13
	Dollars,	1,363,946 03

437 As appears from the statement and accounts herewith transmitted, for the decision of the Commissioner of the Customs thereon.

T. L. SMITH,
Auditor.

To C. W. ROCKWELL, Esq.,
Commissioner of the Customs.

Balance brought over, . . .		$1,280,160 13
Deduct, Differences per last report, No. 11,402,		73 68
Adjusted balance due the United States.	Dollars,	1,280,086 45

OFFICE OF COMMISSIONER OF CUSTOMS.

Admitted and certified, May 13th, 1851.

C. W. ROCKWELL,
Commissioner of Customs.

TOWNSEND HAINES, Esq.,
Register of the Treasury.

The Balance due the United States, per his account, ending 30th September, 1850, is,		$1,007,641 71
Add net amount of differences per last statement, . .	$78,039 53	
Less the following sums, suspended in the last statement, now admitted, viz.:		
For Disbursements on account		

	of seized vessels and merchandise,—			
	Faulkner & Leland, for advertising per Ships Pearl, Ceres, Lala, and Ocean,	$8		
	Scoffey & Kelley, for advertising per Brig Lala,	194		
	George Rees, for lighterage per Ship C. De Tahite,	135		
439	Patrick Logan, for hauling, per Ship E. Archer,	30		
	George Rees, for lighterage per Brig Dorset,	30		
	Lyman Moury, for hauling, per Bark Cornwell,	4		
			401 00	
	Marine Hospital Disbursements,		820 87	
				76,817 66
	Payments to inspectors, &c., viz.:			
	Amount charged as paid Joseph Adams, as weigher and gauger, for July, August, and September, 1850, suspended, for want of return of fees,			460 00
	Amount charged as paid W. W. Jackson, as inspector, from 1st to 11th November, 1849, disallowed.			
Amount brought forward,				1,084,919 37
440	Being for time previous to opening of office,			44 00
Add	disbursements in relation to appraisements, viz.:			
	The following sums charged for payments on account of boat—suspended for explanation as to necessity for boat; and also for authority.			
	James McInnis, for materials and work,		19 00	
	Buckley & Moore, for rudder joints,		8 00	
	Pay roll of boatmen, for July,		400 00	
	" " " for Aug.,		400 00	
	" " " for Sept.,		400 00	
				1,227 00
"	Disbursements for revenue cutters, viz.:			
	"Lawrence," amt. charged,			

	as paid Purser of Ship		
441	Warren (Vou. No. 10), for coffee, vinegar, and cheese. Disallowed,	46 60	
	Amt. charged as paid F. Morton (Vou. No. 2), for water. Disallowed,		371 88
	Amt. charged, as paid W. W. Lee, as Surgeon, for July, August, and September, 1850, at $150, instead of $50, per month, as authorized by the Secretary of the Treasury. Difference,	300 00	
	Amount charged, as paid A. V. Frazer, as Captain, on Pay Rolls, for July, Aug., and Sept., 1850. Disallowed, the same having been paid by allotment in		
442	New York,	299 40	
	Amount charged, as paid George Hayne, Cabin-boy on Pay Rolls, for July, Aug., and Sept., 1850, $40, instead of $15, per month. Difference,	75 00	
	Amount charged by him, as paid Wm. Nicols, as ward-room-boy, on pay roll, for Sept., 1850, $40, instead $15, per month. Difference,	25 00	
			1,117 88
	"Polk," amount charged on pay rolls for July and Sept., 1850, for equivalent for		
443	liquors to officers. Disallowed,	23 79	
	The following sums charged on pay rolls for Sept., not receipted for.		
	Lieut. C. H. Bennett, 20 70		
	" John Carson. 72 37		
		93 07	
	Amount charged in abstract, as "Pay Rolls for Aug." Roll not received. Dupli-		

	cate for September received,	1,057 96	1,174 82	2,292 70
	Amount charged by him in Abstract of Contingent Expenses, as paid Henry Passine for hauling.			
444	Suspended for want of witness to signature,			8 00
	Abstract of Incidental Expenses, viz.:			
	The following sums charged as payments. Suspended for want of witness to signatures.			
	Patrick Toy, Vou. No. 17	4 50		
	John Dorsey, " " 18	76 00		
	James Dean, " " 26	7 00		
	John Grey, " " 27	3 00		
	Jas. McCarnon, " " 39	18 00		
	Dennis Kennedy, " " 45	14 00		
			122 50	
	Amount charged, as paid Samuel Strong for building wharf. Suspended for want of authority,		22,837 50	
				22,960 00
445	Amount charged by him in account current, as "Special deposits," supposed to be excess of deposits refunded. Suspended for want of proper abstract and vouchers,			162,450 75
	Amount charged by him in abstract of tonnage, and light money refunded, as paid by J. D. P. Green, Disallowed, charged also in account for 2d quarter, 1850,			98 56
	Amount paid by C. W. Lawrence, late Collector of New York, per order of Comptroller of the Treasury, dated 3d April, 1849, not credited by him,			6,500 00
				$1,280,500 38

446	Deduct Salary of Collector for this quarter, not charged by him,	375 00	
	Marine Hospital Disbursements, short charged by him,	38 93	
			413 93
			$1,280,086 45

Treasury Department, First Auditor's Office, April 8th, 1851.
M. H. MILLER.

Office of Commissioner of Customs, May 12th, 1851.
J. R. McCORKLE.

No. 11,631.

TREASURY DEPARTMENT, FIRST AUDITOR'S OFFICE,
April 25th, 1851.

I have examined and adjusted the accounts of James Col-
447 lier, Collector of the Customs, for the District of Upper California, in the State of California, under official bond, dated 3d April, 1849; commencing 1st October and ending 31st December, 1850, and find that he is chargeable, viz.:

To balance of his account, ending 30th September, 1850,		$1,280,086 45
	(Per Report No. 11,593.)	
	Duties on merchandise,	547,649 24
	Tonnage duty,	6,104 14
448	Light money,	1,078 50
	Marine Hospital money collected,	4,950 06
	Special deposits for unascertained duties,	247,028 15
	Proceeds of sales of seized goods,	2,525 46
	Do. do. of unclaimed merchandise,	25 00
	Dollars,	2,089,447 00

I also find that he is entitled to credit, viz.:

By	payments to Inspectors, &c.,	28,003 00
	Disbursements in relation to appraisements,	1,308 00
449	Ditto on account of Revenue Cutters,	6,934 56
	Ditto on account of Revenue Boats,	5,200 33
	Ditto on account of contingent expenses,	23,106 45
	Ditto on account of public warehouses,	430 00
	Duties refunded,	225 30
	Salary of the Collector,	375 00

Amount of the following Warrants in favor of the Treasurer, viz.:

	No. 146, drafts, dated 15th March, 1851, ...	$339,000 00	
450	No. 195, drafts, dated 21st December, 1850, ...	55,500 00	
			394,500 00
	And the balance, due the United States, on the first day of January, 1851, amounted, in cash on hand, to		1,629,438 04
		Dollars,	2,089,520 68

As appears from the statement and accounts herewith transmitted for the decision of the Commissioner of the Customs thereon.

T. L. SMITH,
Auditor.

To C. W. ROCKWELL, Esq.,
Commissioner of Customs.

	Balance brought over,	$1,629,438 04
451	Deduct difference, per Report No. 11,593, .	73 68
	Adjusted balance due the United States, .	$1,629,364 36

Office of Commissioner of Customs. Admitted and certified, May 16, 1851.

C. W. ROCKWELL,
Commissioner of Customs.

TOWNSEND HAINES, Esq.,
Register of Treasury.

	The balance due the United States, per his account, ending 31st December, is . . .		$1,134,339 96
452	Add net amount of differences, per last statement, ...		272,444 74
	Add abstract of Inspectors, viz.:		
	Alexander Richards, as Inspector from 23d November to 31st December, 1850 (Vou. No. 400), $148 instead of $146 —difference, ...	$2 00	
	Joseph Adams, Jr., as weigher and gauger, for October, November, and December, 1850 (Vous. Nos. 99, 150, and 405),—Suspended for want of return of fees, ...	460 00	
			462 00
	Abstract of disbursements in relation to appraisements, viz.:		

The following sums on account of Revenue boat, suspended for explanation, as to necessity of such, for appraisers, and also for want of authority,—

453

Pay rolls for October, November, and December, 1850 (Vous. Nos. 2½, 17, and 24), ...	1,200 00	
J. W. Snyly, as captain, for October, November, and December, 1850 (Vou. No. 26), ...	460 00	
		1,660 00
Add abstract of disbursements for Revenue Cutters: Disallowed, viz.:		
(Lawrence.)		
A. V. Frazer, for atlas, . . .	$300 00	
O. H. Parker, for lighterage, . .	22 00	
Sloop Clara, for water, . . .	135 00	
454 Water Boat Emma, for water, . .	96 06	
Oswald Parker, for lighterage, &c., .	30 00	
William W. Lee, as surgeon for October and November, 1850 (Vous. Nos. 8 and 16): $150 instead of $50 per month, as authorized by the Secretary of the Treasury: Difference,	200 00	
		783 06
		$1,408,896 70

Pay Roll, for October, 1850:

The following sums overcharged for payments to seamen, being $70 instead of $35 per month, as charged by Revenue Cutter Polk:

George Horton, . .	35 00	
Henry Welsh, .	35 00	
455 Edward Sims, .	35 00	
		105 00
George Hayne, as cabin boy, $40 instead of $15 per month. Difference, . . .	25 00	
Equivalent for liquor to officers, . . .	3 72	
		28 72

Pay roll for Nov., 1850:

E. Sims, seaman, $40 instead of $35 70. Difference, . 4 30

George Hayne, $40 instead

	of $15 per mo. Difference, ...	25 00		
			29 30	946 08
	Pay roll for Nov., 1850:			
	Lieut. Woodward not re-			
456	ceipted for. Died 15th,	22 37		
	J. W. Phillips, .	34 50		
	Daniel Clifton, . .	25 70		
	J. M. McNulty, as Surgeon, $150 instead of $66 66, as authorized by the Secretary of the Treasury. Diff., .	83 34		
	Equivalent for liquor to officers, . . .	7 20		
			173 11	
	Pay roll for December, 1850:			
	Lieut. Woodward. Died 15th Nov., 1850, ...	22 40		
	Daniel Edwards, receipted for by Lieut. Gladding, . . .	36 73		
457	J. M. McNulty, as Surgeon, $150 instead of $66 67, as authorized by the Secretary of the Treasury. Difference, .	83 33		
	Equivalent for liquors to officers, . . .	7 74		
	James Blair, for water, Vou. No. 3, . .	150 00		
	James Und, for water, Vou. No. 10, . . .	60 00		
	Pay roll for September, 1850. Suspended for explanation. Captain Hunter having admitted a credit of $750 22, as a balance in his hands, for which no account has been rendered, .	942 78		
			1,301 98	1,147 09
458	Swift and Bro., Vou. No. 1, for 102¾ yds. canvass, at 45 cts., $46 60, instead of $46 24. Difference, . .		0 36	
	Equivalent for liquor to officers for Oct., Nov., and Dec., 1850, .		7 35	

Lieut. W. C. Pease, on pay roll for Nov., 1850, $0 90 instead of $0 70. Difference, . .	0 20			
Lieut. W. C. Pease, on pay roll for Dec., 1850, $0 93 instead of $0 73. Difference, . .	0 20			
		8 11		2,429 28
459 Abstract of disbursements for revenue boats, viz.:				
Amount charged as paid McCondry & Co., Vou. No. 3, for boat. Suspended for want of authority, .				135 00
Abstract of contingent expenses. Disallowed, viz.:				
James Wilson, as Special Agent, Vou. No. 7, . . .	500 00			
Amount allowed by the Secretary of the Treasury, . . .	300 00			
		200 00		
The following sums chargeable to proceeds of sale:				
Wm. Rowland, Vou. No. 6, lighterage of				
460 brandy per ship Jane Remerind,	3 75			
George E. Yates, Vou. No. 18, hauling from Brig Vixen, .	3 00			
		6 75		206 75
Abstract of incidental expenses, viz.:				
James Rowland, Vou. No. 1, for taking lumber out of water. Suspended for explanation, ...		1,400 00		
Josiah Morgan, Vou. No. 6, for lighterage on goods seized. Disallowed; chargeable to proceeds of sale, ...		15 00		
Vouchers, Nos. 2, 3, 4, 5, 9, 10, 11, 12, 13, 14, 16, 17, and 18, for expenses on amount of unclaimed merchandise. Disallowed;				
461 chargeable to proceeds of sale, . .		787 00		
				2,202 00
Amount charged by him in account current, as "Disbursements on account of unclaimed (Abstract seized) merchandise." Suspended for explanation; no duties appearing to have been returned, and also for want of vouchers, ...				77 28
Abstract of disbursements on account of public warehouses, viz.:				
The following sums suspended for want of witness to signatures:				
Nicholas Johnson, Vou. No. 2, . .		4 00		
Ditto, " " 8, . .		17 50		

James Conner, Vou. No. 12, . . .	12 50		
			34 00
Amount charged by him in account current, as 462 "Special deposits." Supposed to be excess of deposits refunded. Suspended for want of proper Abstract and Vouchers, . . .			205,154 35
Amount charged by him in account current for marine hospital disbursements, not yet covered by warrant, ...			5,004 00
Amount charged by him in account current for "Disbursements to the Treasury of the United States,"	400,100 00		
Amount covered by warrant, credited in this statement, ...	394,500 00		
			5,600 00
			$1,629,739 36
Deduct Collector's salary, credited in this state- 463 ment, not charged by him, ...			375 00
			$1,629,364 36

Treasury Department, First Auditor's Office, April 24, 1851.
M. H. MILLER.

Office of Commissioner of Customs, May 16, 1851.
J. R. McCORCLE.

Treasury Department, First Auditor's Office, June 5th, 1851.

I have examined and adjusted the accounts of James Collier, late Collector of the Customs for the District of Upper California, in the State of California, under official bond, dated 3d April, 1849, commencing 1st and ending 14th January, 1851, and find that 464 he is chargeable, viz.:

To balance of his account ending 31st Dec., 1850, per Report, No. 11,631, . . .	$1,629,364 36
Duties on merchandise, ...	78,571 82
Tonnage duty, ...	295 97
Light money, ...	142 75
Marine hospital money collected, . .	717 99
Special deposits for unascertained duties, .	36,650 40
Proceeds of sales of seized goods, . .	18,426 27
465 Amount received for Inspector's fees, .	3,346 00
" " for storage, . .	1,032 50
Fines, penalties, and forfeitures, . . .	1,000 00

The following sums short charged in previous statements:

For fines, penalties, and forfeitures,			
In 2d Quarter, 1850, . .	$10,797 00		
" 3d " " . .	187 50		
			10,984 50
To rent of Old Custom House, to Palmer, Cook & Co., from 1st February to 31st December,			
466 1850, at $9,000 per annum, as acknowledged in his letter to Gilbert Rodman, dated 29th May, 1850, ...			8,250 00
Amount received for rent of Public Reservations, per certificates of S. Woley, William E. Stoutenburg, Amelia Cole, and C. T. Kimball, .			5,661 00
		Dollars,	1,794,443 56
I also find that he is entitled to credit, viz.:			
By payments to Inspectors, &c., . . .			$4,086 00
Disbursements on account of appraisements, .			3,079 50
Do. for Revenue Cutter Polk, .			208 86
467 Do. for Revenue boats, . .			219 06
Do. for contingent expenses, . .			6,924 75
Salary of the Collector from 1st to 14th January, 1851, inclusive, ...			58 33
Amount of the following warrants in favor of the Treasurer, viz.:			
No. 73. Drafts dated 10th May, 1851, . .	$75,000 00		
No. 111. M. H. dated 10th May, 1851, . .	5,054 00		
No. 112. —— dated 10th May, 1851, . .	5,500 00		
No. 142. Drafts dated 20th May, 1851, . .	5,000 00		
			90,554 04
468 Alexander V. Frazer, as Commander of United States Revenue Cutter Lawrence: for this amount, being for sundry items of disbursement for said Cutter, for which, as improper disbursements, said Frazer will be held accountable, .			3,553 94
Henry D. Hunter, as Commander of the United States Revenue Cutter Polk: for this amount, being for sundry items of disbursements for said Cutter, for which, as improper disbursements, said Hunter will be held accountable, . .			988 24
Cash paid Thomas Butler King, his successor in office, per letter of the Comptroller of the 469 Treasury, dated 1st November, 1850, and his receipt herewith, dated 14th January, 1851,			

with which said King will be charged and held accountable, ... $893,705 53
And that the balance due the United States on the 15th day of January, 1851, amounted to, . 791,065 31

Dollars, 1,794,443 56

As appears from the statement and accounts herewith transmitted for the decision of the Commissioner of Customs thereon.

T. L. SMITH,
Auditor.

To C. W. ROCKWELL, Esq.,
Commissioner of Customs.

470 Office of the Commissioner of Customs. Admitted and certified June 7th, 1851.

C. W. ROCKWELL,
Commissioner of Customs.

TOWNSEND HAINES, Esq.,
Register of the Treasury.

The balance due the United States per the above statement, the late Collector making no balance to his account ending 14th January, 1851, is, . $791,065 31
Which arises from the following disallowances and suspensions, viz.: payments to Inspectors, &c.,
The following sums charged by him for payments to officers for time prior to 12th November,
471 1849, the day on which the office was opened at San Francisco. Disallowed:

4 qr. 1849, Abraham Kintzing, as Inspr. 1st May to 12th October, 1849, ...	495 00	
4 qr. 1849, John A. Collier, as Inspr. 3d April to 11th Nov., 1849, ...	669 00	
4 qr. 1849, E. D. Collier, as D'y. Collr. 3d April to 11th Nov. 1849, ...	608 33	
	———	1,772 33
1 qr. 1850, Jno. A. McDowell, as Inspr. 1st to 11th Nov. 1849, ...		44 33
472 2 qr. 1850, James S. Bailey, as Inspr. 1st to 11th Nov. 1849, ...	44 00	
2 qr. 1850, Daniel Barbee, as Inspr. 1st to 11th Nov. 1849,	44 00	
2 qr. 1850, E. T. Tremain, as Inspr. 1st to 11th Nov. 1849,	44 00	
	———	132 00

3 qr. 1850, W. W. Jackson, as Inspr. 1st to 11th Nov. 1849.		44 00	
The following sums charged by him as paid to officers in more than one capacity, disallowed: that commanding the highest rate of compensation admitted:			
4 qr. 1849, A. Bartol, as Inspr. from 9th to 30th Dec. 1849, allowed as Store-keeper,	88 00		
473 4 qr. 1849, Abraham Kintzing, as Inspr. from 12th to 30th Nov. 1849, allowas Appraiser, . . .	76 00		
4 qr. E. D. Collier, as Book-keeper from 12th Nov. to 31st Dec. 1849, allowed as Cashier,	326 66		
1 qr. 1850, E. D. Collier, as Book-keeper from 1st to 31st Jan. 1850, allowed as Cashier,		490 66	
Amount charged by him in 2d quarter, 1850, as paid A. H. Wyley, as Inspr. for April, suspended for want of voucher,		200 00	
474 Amount charged by him in 1st quarter, 1851, as paid A. Randall, as Deputy Collector at Monterey, from 4th Dec. 1849, to 4th Jan. 1851, at $3000 instead of $1000 per annum, as provided by law, $3,250, instead of $1,087 20,—difference,		120 00	
		2,162 80	
Disbursements for Revenue Cutter Polk:			4,965 79
Amount charged by him in abstract for 3d quarter 1850, as pay-roll for August.—			
475 Voucher not received.— Duplicate for September, sent by late Collector, .			1,057 96
Disbursements for Revenue Boat Argus. Amount charged on pay-rolls for October, November, and December, 1850, for equivalent for liquor to officers —Disallowed, . . .			7 35

Disbursements on account of Contingent expenses: The following sums charged by him for rent of Custom House,—Disallowed, per letter of the Secretary of the Treasury, dated 11th April, 1850.			
476 1 qr. 1850, Thomas G. Wells for February and March, ...	14,000 00		
2 qr. 1850, Thomas G. Wells for April and May, . .	14,000 00		
The following sums charged by him in 4th quarter, 1850,—Disallowed, chargeable to proceeds of sale:		28,000 00	
William Rowland, lighterage of brandy from Ship Jane Remerine, ...	3 75		
George E. Yates, hauling from Brig Vixen, . . .	3 00		
Amount charged by him on 1st qr. 1851, as paid John C. Hays for expenses of in transporting five females, under a writ of Habeas Corpus:		6 75	
477 disallowed in account of Customs, . . .		150 00	
Amount charged by him in 1st quarter, 1851, as paid James Collier, "for indemnity for suits now pending, claims and reclamations for goods seized and sold on account of the United States, and for commission on moneys received and disbursed for the United States:" disallowed. No account of fees, &c., received by the late Collector, nor any account of official emoluments has been rendered, ...		163,500 00	
Disbursements on account of "Incidental Expenses:"			191,656 75
478 3 qr. 1850, Samuel Strong, for building wharf. Suspended for want of authority,		22,837 50	

	4 qr. 1850, James Rowland, for taking lumber out of water. Suspended for explanation, .	1,400 00		
	Josiah Morgan, for lighterage on goods seized: disallowed.—Chargeable to proceeds of sale,	15 00		
	Vouchers Nos. 2, 3, 4, 5, 9, 10, 11, 12, 13, 14, 17, and 18, per abstract for expenses on account of unclaimed merchandize: disallowed. Chargeable to proceeds of sale, .	787 00		
479	1 qr. 1851, William Webster, Vou. No. 1., for Storage. Suspended for explanation, most of which appears to be on goods from vessels for which charge has been made by the late Collector in this account (Abstract No. 10), for his moiety of seized merchandise. If for goods seized, to be deducted from proceeds of sale. If warehoused, chargeable to merchants,	865 00	2,202 00	
480	H. H. McLean, Vous. Nos. 2 & 3 (see statements accompanying), for storage. Suspended as above, and also for accounts of particulars for first portions of both statements,	43,405 28		
	Richard Murphy, Vous. Nos. 4, 5, 6, 7 & 8, for lighterage of unclaimed merchandise. If unclaimed, to be deducted from proceeds of sale. If warehoused, chargeable to merchants, ...	740 00	45,010 28	70,049 78
	Disbursements for "special deposits."			
	The following sums charged by him, suspended for want of proper abstracts and receipts of			

481 persons to whom payments were made:			
3 qr. 1850,	162,450 75		
4 qr. 1850,	205,154 35		
1 qr. 1851,	23,759 15		
		391,364 25	
Amount short credited by him in 2 quarter, 1850; being amount of abstract for "excess of deposits" for unascertained duties credited the United States from 12 Nov. 1849, not credited by him,		14,585 55	
			405,948 80
482 Tonnage and light money refunded:			
2 qr. 1850. Per Mexican Brig Dos Amigos,	97 00		
Less amount credited as received Jan. 23, 1850,	95 00		
		2 00	
3 qr. 1850. J. D. P. Green, charged also in 2 qr. 1850,		98 56	
			100 56
Fines, penalties, and forfeitures.			
The following sums charged to him in this statement in addition to the amounts credited by him in abstracts, being amounts claimed as proportions of late Collector and informer: payment of which proportions is suspended			
483 until the seizures are ascertained to have been legally made, the fines lawfully imposed, and not remitted by the Secretary of the Treasury.			
2 qr. 1850. Brig Klin-			

	kett, Feb. 13, 1850, $412 75, instead of 1,651, difference,	1,238 25
	Brig Felix, Mar. 2, 1850, $131, instead of $524, difference,	393 00
	Launch Charlotte, Mar. 2, 1850, $200, instead of $800, difference,	600 00
484	Brig Rambler, Mar. 6, 1850, $389 87, instead of $1,559 50, difference,	1,169 63
	Schr. M. Del Fairo, April 3, 1850, $250, instead of $1000, difference,	750 00
	Sloop Anne K., April 8, 1850, $175, instead of $700, difference,	525 00
	Schr. P. De Inquinque, April 25, 1850, $300, instead of $1,200, difference,	900 00
485	Schr. Elizabeth, May 1, 1850, $250, instead of $1,000, difference,	750 00
	Brig Kini, May 11, 1850, $125, instead of $500, difference,	375 00
	Sloop Sisters, May 17, 1850, $100, instead of $400, difference,	300 00
	Schr. Mary, May 20, 1850, $147, instead of $588, difference,	441 00
	Sloop Polly, June 17, 1850, $56 25, instead of $225, difference,	268 75
486	Sloop Elizabeth, June 27, 1850, $250, instead of 1000, difference,	750 00
	Bark Victoria, June 17, 1850, $400, instead of $800, difference,	400 00
	Brig Treaty, June 27, 1850, $75, instead of $150, difference,	75 00

Brig Adela, June 27, 1850, $1,037 88, instead of $2,075 75, difference,	1,037 87		
Schr. Lahaina, June 27, 1850, $423 50, instead of $847, difference,	423 50	10,297 00	
3 qr. 1850. Schr. Two Sisters, July 2, 1850, $62 487 50, instead of $250, difference,		187 50	
Amount charged by him in abstract No. 11, of this account, as his proportion. Suspended as above,		1,150 00	
Amount stated in abstract accompanying abstract F. 2d quarter 1850, as received per Sloop Elizabeth, June 27, 1850, no part of which is credited in abstract F.,		500 00	12,134 50
Seized vessels and merchandise:			
2d qr. 1850. The following sums charged by him per Ship Edward, 488 disallowed—the seizure being illegal, and remitted by the Secretary of the Treasury, claim for remuneration, for illegal seizure, now pending in the Department,			
W. C. Nye, for lighterage,	5,018 65		
W. Webster, " storage,	9,000 00		
Glen & Co. " "	6,953 08		
W. C. Nye, " breaking bulk,	1,000 00		
		21,971 73	
The following sums charged by him per Brig Lala. Suspended for explanation, and also for returns of proceeds:			
W. C. Nye, for lighterage.	1,321 95		

Glen & Co. for			
489 storage.	5,988 54		
		7,310 49	
The following sums charged by him, suspended for want of return of sales:			
J. W. Webster, for storage per Brig Ebenezer.	32 00		
Glen & Co., for ditto. Ship Blakely.	1 80		
		33 80	
		$29,316 02	$685,921 49
Amount charged by him as paid J. James as cook, on board Bark Joseph Albino, disallowed, ...		128 00	
490 1 qr. 1851, amount charged by him as "disbursements on account of seized merchandise," apparently the moiety claimed by him as his share of the net proceeds of sales of said merchandise, suspended for want of auctioneer's account of sales in all cases where the same have not been rendered with his quarterly accounts; and also for statement showing the costs and net proceeds in each case: moreover, in the case of the Ship Edward, and all similar cases, the seizures were declared illegal, and the Collector was instructed by the Department, to restore to the consignees, or legal			
491 claimants, both vessels and cargoes: in all such cases he has of course no claim for any share of the net proceeds of sales, ...		47,352 33	
			76,796 35
Amount charged by him in account current 4th quarter, 1850, as "disbursements on account of unclaimed" (abstract seized) "merchandise," suspended for explanation; no duties appearing to have been accounted for, and also for want of vouchers, ...			77 28
Amount paid him by C. W. Lawrence, late Collector of New York, per order of the Comptroller of the Treasury, dated 3d April, 1849, not credited by him, . .			6,500 00

Amount overcharged by him in 4th quarter, 1850, for "disbursements to the Treasury of the United States," being on account of a draft in favor of Edward Hamilton for $5,600, $5000 only of which appearing to have been paid by the late Collector, ... 600 00

Amount charged by him in this account as "suspended account with A. Randall, Deputy Collector at Monterey," for money stolen, disallowed, ... 8,110 29

Amount charged to late Collector in this statement, for rent of Custom House, to Palmer, Cook & Co., from 1st February to 31st December, 1850, as acknowledged in his letter to Gilbert Rodman, under date of 29th May, 1850, (see letter on file in Secretary's office), not credited by him, ... 8,250 00

Amount charged to late Collector in this statement, as received for rent of public reservations, per certificates of S. Woley, William E. Stoutenburg, Amelia Cole, and C. P. Kimball, not credited by him, ... 5,661 00

Deduct the following sums short charged by him for Marine Hospital disbursements:

3d quarter, 1850, . .	38 93	
4th quarter, 1850, . .	50 04	
	88 97	

Salary of the late Collector from 12th November, 1849, to 14th January, 1851, inclusive, 1,762 13

Less amount charged by him in 4th quarter, 1849, 1,000 00

762 13 851 10

$791,065 31

Treasury Department, First Auditor's office, June 4th, 1851.

M. H. MILLER.

Office of Commissioner of Customs, June 7th, 1851.

J. R. McCORKLE.

No. 12,100.

TREASURY DEPARTMENT,
First Auditor's Office, September 22d, 1851.

I have examined and adjusted the accounts of James Collier, late

Collector of the Customs for the District of Upper California, in the State of California, under official bond, dated 3d April, 1849, and find that he is chargeable, viz.:

	To Balance of his account, ending 14th January, 1851, per report, No. 11,772, .	$791,065 31
495	Amount of Disbursements on account of seized vessels and merchandise, improperly credited to him in previous statements, ...	2,429 00
	Dollars,	793,494 31

I also find that he is entitled to credit, viz.:

	By amount of the following disbursements, suspended in previous statements, now admitted:		
	Payments to inspectors, &c., .	$384	
	Contingent expenses, on account of unclaimed merchandise, .	1,527	
			1,911 00
496	Amount of warrant No. 202, drafts, in favor of the Treasurer, dated 11th June, 1851,		600 00
	And that the balance due the United States, amounts in cash on hand, to . . .		790,983 31
	Dollars,		793,494 31

As appears from the statement and accounts herewith transmitted for the decision of the Commissioner of the Customs thereon,

T. L. SMITH,
Auditor.

To C. W. ROCKWELL, Esq.,
Commissioner of Customs.

	Auditor's Balance brought down, . .	790,983 31
497	From which deduct amount of pay roll for August, 1850, for disbursements of Revenue Cutter Polk, heretofore suspended for want of vouchers, now admitted, the pay roll having been transmitted by T. Butler King, Collector, as per his letter of the 8th August, 1851, and received at this office, September 22d, 1851,	1,057 96
	Leaving balance due the United States of,	$789,925 35

Admitted and certified, as corrected.

C. W. ROCKWELL,
Collector of Customs.

498 The balance due the United States, per the above statement, the Collector making no balance to his account, ending 14th January, 1851, is, ... $790,983 31

Which arises from the following disallowances, viz.:

Payments to Inspectors, &c., viz.,

The following sums charged by him, for payments to officers, for time prior to 12th November, 1849, the day on which they entered upon their duties:

4q. 1849. Abraham Kintzing, as Inspector, from 1st May to 12th October, 1849, $495 00

499 John A. Collier, as inspector, from 3d April, to 11th November, 1849, 669 00

E. D. Collier, as Deputy Collector, from 3d April, to 11th Nov., 1849, 608 33

——— 1,772 33

E. D. Collier, as Bookkeeper, from 12th November, 1849, to 31st January, 1850, he having been paid for same time, at a higher compensation, as Cashier, . 526 66

500 Amount charged by him in 2d quarter 1850, as paid A. H. Wyley, as Inspector for April, 1850, no voucher, ... 120 00

Amount charged by him in 1st quarter, 1851, as paid A. Randall, as Deputy Collector at Monterey, from 4th December, 1849, to 4th January, 1851, at $3000, instead of $1000, per annum, as provided by law,—difference, . . 2,162 80

——— 4,581 79

Disbursements for Revenue Cutter Polk, viz.:

Amount charged in abstract, for three quarters 1850, as pay roll for August, voucher not received, duplicate for September sent by Collector, ... 1,057 96

501 Disbursements for Revenue Boat Argus, viz.:

Amount charged on pay rolls, for October, November, and December, 1850, as equivalent for liquor to officers, . . . 7 35

Disbursements on account of contingent expenses, viz.:

The following sums charged by him, for rent of

	Custom House. See letter of the Secretary of the Treasury, dated 11th April, 1850:				
	1 q. 1850, Thomas G. Wells, for February and March, 1850,	$14,000			
	2 q. " Ditto, for April and May, 1850, ...	14,000			
			28,000		
502	The following sums charged by him in 4th quarter, 1850:				
	Wm. Rowland, for lighterage of Brandy, from Ship Jane Remerine, ...	3 75			
	George E. Yates, for hauling from Brig Vixen, ...	3 00	6 75		
	Amount charged by him in 1st quarter, 1851, as paid John C. Hayes, for transporting five females, under a writ of Habeas Corpus, . .		150 00		
503	Amount charged by him in 1st quarter, 1851, as paid James Collier, for indemnity for suits now pending; claims and reclamations for goods seized and sold on account of the United States, and for Commission on moneys received and disbursed for the United States. See second section, Act of 3d March, 1839, ...		163,500		
					191,656 75
	Disbursements on account of incidental expenses, viz.:				
	The following sums charged by him:				
	3 qr. 1850, Samuel Strong, for building wharf,		22,837 50		
504	4 qr. 1850, James Rowland, for taking lumber out of water,	1,400 00			
	Josiah Morgan, for lighterage, . . .	15 00			
			1,415 00		
	1 qr. 1851, William Webster for storage, .	865 00			
	H. H. McLean, Vouchers No. 2 and 3 (see statements accompanying), for storage, . .	43,405 28	44,270 28		68,522 78

Disbursements for special deposits, viz.:				
The following sums charged by him, no Vouchers having been rendered,				
3 qr. 1850, . .	$162,450 75			
505 4 qr. 1850, . .	205,144 35			
1 qr. 1851, . .	23,759 15			
		391,364 25		
Amount received by him per abstract rendered for excess of deposits for unascertained duties, but not credited, . .		14,584 55	405,948 80	
Tonnage and light money refunded, viz.:				
2 qr. 1850, per Mexican brig Dos Amigos, .	97 00			
Less amount credited, as received 23d Jan., 1850,	95 00	2 00		
3 qr. 1850, J. D. 506 P. Green. Charged also in 2 qr. 1850,		98 56		
			100 56	
Fines, penalties, and forfeitures, viz.:				
The following amounts short credited, being the proportions retained by the Collector, and paid to Captain A. V. Frazer, of the Revenue Cutter Lawrence.				
2 qr. Brig Klinket, 13th Feb., 1850, $412 75, instead of $1,651, difference, . . .	1,238 25			
Brig Felix, 2d March, 1850, $131, instead of $524, difference, . .	393 00			
507 Launch Charlotte, 2d March, 1850, $200, instead of $800, difference, . .	600 00			
Brig Rambler, 6th March, 1850, $389 87, instead of $1,559 50, difference,	1,169 63			
Schr. M. Del Fairo, 3d April, $250, instead of				

$1,000, difference, .	$750 00	
Sloop Annie K., 8th April, $175, instead of $700, difference, . .	525 00	
Schr. P. De Inquinque, 25th April, $300, 508 instead of $1,200, difference, . .	900 00	
Schr. Elizabeth, 1st May, $250, instead of $1,000, difference, . .	750 00	
Brig Kini, 11th May, $125, instead of $500, difference, . . .	375 00	
Sloop Sisters, 17th May, $100, instead of $400, difference, . .	300 00	
Schr. Mary, 20th May, $147, instead of $588, difference, . .	441 00	
Sloop Polly, 17th June, $56 25, instead of 509 $225, difference, .	168 75	
Schooner Elizabeth, 27th June, $250, instead of $1,000, difference, .	750 00	
Bark Victoria, 27th June, $400, instead of $800, difference, . .	400 00	
Brig Treaty, 27th June, $75, instead of $150, difference, . .	75 00	
Brig Adela, 27th June, $1,037 88, instead 510 of $2,075 75, difference, . .	1,037 87	
Schr. Lahaina, 27th June, $423 50, instead of $847, difference, .	423 50	
		10,297 00
3 qr. 1850, Schr. Two Sisters, 2d July, $62 50, instead of $250, difference, . . .		187 50
		10,484 50

Amount charged by him

for fines imposed for smuggling, and violation of Passenger Act. Per Abstract 11, . .		1,150 00	
Amount stated in Abstract accompanying Abstract F., 2 qr. 1850, as received per Sloop Elizabeth, June 27th, 1850, no part of which is credited in Abstract F., . .		500 00	
			12,134 50
Seized vessels and merchandise, viz.: The following sums charged as expenses incurred by him, in relation to the seizure of vessels and merchandise, against which no decree of condemnation has been rendered.			
2 qr. 1850, W. C. Nye, per Ship Edward, for lighterage, . .	5,018 65		
W. Webster, per Ship Edward, for storage, .	9,000 00		
Glenn & Co., per Ship Edward,			
512 for storage, .	6,953 08		
W. C. Nye, per Ship Edward, for breaking bulk, &c., . .	1,000 00		
		21,971 73	
W. C. Nye, per Brig Lalla, for lighterage, . .	1,321 95		
Glenn & Co., per Brig Lalla, for storage, .	5,988 54		
		7,310 49	
J. W. Webster, per Brig Ebenezer, for storage, .	32 00		
Glenn & Co., per Ship Blakely, for storage, .	1 80		
J. James, per Bark			

Joseph Albino, as Cook, . .	128 00			
		161 80	$29,444 02	
513 1 qr. 1851, Amount charged by him as disbursements on account of seized merchandise, per Abstract, but for which no Vouchers have been rendered, ...			47,352 33	
The following sums improperly credited to him in previous statements:				
2 qr. 1850, Glenn & Co., per Ship Edward, for keeping horses, .	$25 00			
Scoffey & Kelsey, per Ship Edward, for advertising, &c., .	194 00			
Store-ship Zuid Pool, for lighter to water Brig Joseph Albina, .	15 00			
Scoffey & Kelsey, per Bark Louisa Maria, for advertising, . . .	8 00			
George Rees, per Bark Roche De St. Malo, for lighterage, .	750 00			
514 Talmadge G. Robins, per Bark Roche De St. Malo, for hauling,	309 12			
		1,301 12		
George Rees, per Ship Chili, for lighterage,	349 88			
Ditto, per Ship Tarolinta, for ditto,	270 00			
William Webster, per Ship Chasely, for storage,	63 00			
Faulkner & Leland, per 3 vessels for advertising,	6 00			
		$688 88		
3 qr. 1850. Ditto, 515 per Brig Pearl, Ship Crees, Brig Lalla, and Brig Ocean, for advertising,	8 00			
Scoffey & Kelsey, per Brig Lalla, for advertising, &c.,	194 00			

George Rees, per Ship C. D. Tahite, for lighterage,	$135 00		
Patrick Logan, per Ship E. Archer for hauling,	30 00		
George Rees, per Brig Dorset, for lighterage,	30 00		
Lyman Moury, per Bark Cornwell, for hauling,	4 00		
William Rowland, per ditto, for lighterage,	16 00		
Ditto, per Ship Valiant, for ditto,	22 00		
		$439 00 $2,429 00	$79,225 35

Amount charged by him in account current, 4th quarter, 1850, as disbursements on account of unclaimed merchandise. No Vouchers, 516 — 77 28

Amount paid him by C. W. Lawrence, late Collector of New York, per order of the Comptroller of the Treasury, dated 3d April, 1849, not credited by him, — 6,500 00

Amount charged by him in 1 quarter, 1851, as money stolen from A. Randall, Deputy Collector at Monterey, — 8,110 29

Amount charged to the Collector in 1 quarter, 1851, for rent of Old Custom House, to Palmer, Cook & Co., from 1st February to 1st December, 1850, as stated in his letter to Gilbert Rodman, under date of 29th May, 1850; not credited by him. See letter on file in Secretary's Office, 517 — 8,250 00

Amount charged to the Collector in 1 quarter, 1851, as received for rent of Public Reservations, per certificates of S. Woley, William E. Stoutenburg, Amelia Cole, and C. P. Kimball, not credited by him, — 5,661 00

$791,834 41

Deduct the following sums short charged by him for Marine Hospital Disbursements, viz.: 518

3d quarter, 1850,	38 93	
4th quarter, "	50 04	
		$88 97

Deduct salary of the Collector, from 12th November, 1849, to 14th Jan., 1851, inclusive, 1762 13

Less amount charged by

him in 4th quarter, 1849, 1,000 00

$762 13 851 10

$790,983 31

Note.—In Report No. 11,772, certain amounts were suspended for the explanation of the late Collector, who was present,
519 and desirous of explaining the differences:—so far as those explanations were satisfactory credit has been given in this statement, and so far as they were not deemed sufficient, those suspended items are now disallowed.

Treasury Department, First Auditor's Office, September 22, 1851.
M. H. MILLER.

Auditor's balance brought down, $790,983 31
From which deduct amount of Pay Roll for August, 1850, for disbursements of Revenue Cutter Polk—heretofore suspended for want of Vouchers—
520 now admitted, the Pay Roll having been transmitted by T. Butler King, as per his letter of the 8th August, 1851, and received at this office September 22d, 1851, 1,057 96

Leaving balance due the United States, in cash on hand, $789,925 35

Office of Commissioner of Customs, September 24th, 1851.
J. R. McCORKLE.

No. 12,293.

TREASURY DEPARTMENT, FIRST AUDITOR'S OFFICE, December 23d, 1851.

I have examined and adjusted the accounts of James Collier, late Collector of the Customs for the District of Upper Cali-
521 fornia, in the State of California, under official bond, dated 3d April, 1849, and find that he is chargeable, viz.:

To balance of his account, per Report No. 12,100, . $789,925 35
Value of a package of gold dust deposited by Lieutenant J. L. Coutts (see letter of E. D. Collier of 29th November, 1851), ... 582 00

Dollars, 790,507 35

522 I have also found that he is entitled to credit, viz.:
By payments to Inspectors, &c.: being amount sus-

pended for compensation to A. Randall, as Deputy Collector at Monterey, from 4th December, 1849, to 4th January, 1851, now admitted, per letter of the Secretary of the Treasury, of 22d November, 1851, ... $2,162 80

Disbursements for Revenue Boat Argus: being amounts suspended in Fourth Quarter, 1850, for equivalent for liquors to officers; now allowed, per letter of the Commissioner of the Customs, of
523 26th November, 1851; with which Lieutenant William C. Pease, commanding said boat, will be charged and held accountable, ... 7 35

Contingent expenses, viz.:

Amount suspended in 1st and 2d quarters, 1850, as paid Thomas Wells, for rent of Custom House; now allowed, per letter of the Secretary of the Treasury, of 11th December, 1851, $28,000 00

Amount charged to Collector, in 1st qr., 1851, for rent of old Custom House, to Palmer, Cook & Co., from 1st Feb-
524 ruary to 31st December, 1850; now credited, per letter of the Commissioner of the Customs, of 26th November, 1851, with which said Palmer, Cook & Co. will be charged and accountable, ... 8,250 00

Amount of expenses of late Collector from Washington City to San Francisco; allowed under authority of the Secretary of the Treasury, per letter of 3d April, 1849, ... 494 12

36,744 12

Amount of unclaimed merchandise, improperly credited by him in 3d quarter, 1850, . . 77 28

Value of a package of gold dust transferred to T. Butler King, his successor in office, per his re-
525 ceipt herewith, dated 20th January, 1851, with which said King will be charged and held accountable, ... 582 00

And that the balance due the United States, amounts, in cash on hand, to 750,933 80

Dollars, 790,507 35

As appears from the statement and vouchers herewith transmitted for the decision of the Commissioner of the Customs thereon.

T. L. SMITH,
Auditor.

To C. W. ROCKWELL, Esq.,
Commissioner of Customs.

OFFICE OF COMMISSIONER OF CUSTOMS.

526 Admitted and certified, December, 1853.

C. W. ROCKWELL,
Commissioner of Customs.

NATHAN SARGENT, Esq.,
Register of the Treasury.

The balance due the United States per the above statement, the late Collector making no balance to his account, last rendered, is, ...			$750,933 80
Which arises from the following disallowances, viz.:			
Payments to Inspectors, &c., viz.:			
The following sums charged by him for payments to officers, for time prior to 12th Nov. 1849, the day on which they entered upon their duties:			
527 4 qr. 1849, Abraham Kintzing, as Inspr. from 1st May to 12th Oct. 1849, ...	495 00		
4 qr. 1849, John A. Collier, as Inspr. from 3d April to 11th Nov. 1849, . .	669 00		
4 qr. 1849, E. D. Collier, as Depy. Collector from 3d April to 11th Nov. 1849,	608 33		
The following sums charged by him as paid to officers in more than one capacity; that commanding the highest rate of compensation being allowed:	———	1,772 33	
528 4 qr. 1849, E. D. Collier, as Book-keeper, from 12th Nov. to 31st Dec. 1849, allowed as Cashier,	326 66		
1 qr. 1850, E. D. Collier, as Book-keeper, for January, 1850, allowed as Cashier,	200 00		
Amount charged by him in 2d quarter, 1850, as paid A. H. Wyley, as Inspec-	———	526 66	

	tor for April, 1850. No Voucher, . . .		120 00	
	Disbursements on account of contingent expenses, viz.:			2,418 99
	The following sums were charged by him in 4 quarter, 1850:			
529	Wm. Roland, for lighterage of brandy from Ship Jane Remerine, . .	3 75		
	George E. Yates, for hauling from Brig Vixen, .	3 00		
	Amount charged by him in 1st quarter, 1851, as paid John C. Hays, for expenses of transporting five females, under a writ of Habeas Corpus: Has been paid by State Department,		6 75	
			150 00	
	Amount charged by him in 1st quarter, 1851, as paid James Collier, "for indemnity for suits now pending, claims and reclamations for goods seized and sold on account of the United States, and for commissions on monies received and disbursed			
530	for the United States" (see 2d sec. of Act 3d March, 1839), . .		162,500 00	
				$163,656 75

(*a*) Disbursements on account of "Incidental Expenses," viz.:

The following sums charged by him:

3 quarters, 1850, Samuel Strong, for building wharf, . .			$22,837 50	
4 " James Rowland, for taking lumber out of water,	$1,400 00			
Josiah Morgan, for lighterage,	15 00			
(*b*) 1 qr., 1851, William Webster, for storage, .	865 00			
531 H. H. McLean, Vouchers Nos. 2 and 3 (see statements accompanying), for storage, . . .	43,405 28			
			44,270 28	
				68,522 78

Disbursements for Special Deposits, viz.:

The following sums charged by him (no vouchers having been furnished):

	3 quarters, 1850,	$162,450 75		
	4 do. do.	205,154 35		
	1 do. 1851,	23,759 15		
532			391,364 25	
	Amount received by him, per Abstract, rendered for excess of deposits for unascertained duties, but not credited,		14,584 55	
				405,948 80

Tonnage and light money refunded, viz.:

2 quarters, 1850, Per Mexican Brig Dos Amigos, . .	$97 00		
Less amount credited, as received January 23, 1850,	95 00		
		2 00	
3 quarters, 1850, J. P. D. Green; charged also in 2 quarters, 1850, . . .		98 56	
Fines, penalties, and forfeitures, viz.:			100 56

533 The following amounts short credited; being the proportions retained by the Collector and paid to Captain A. V. Frazer, of the Revenue Cutter Lawrence; the same appearing to have been illegally exacted:

			Differences.
2d qr., 1850, Brig Klinkel, Feb'y 13, 1850, $412 75 instead of $1,651. Difference, .			$1,238 25
	1850.	Instead of	
Brig Felix, March 2,	$131,	$524,	393 00
Launch Charlotte, March 2, .	200,	800,	600 00
Brig Rambler,			
534 Mar. 6,	$389 87,	155 50,	1,169 63
Schr. M. Del Feiro, April 3d,	250,	1000,	750 00
Sloop Annie K. April 8th, .	175,	700,	525 00
Sch'r P. D. Inquinque, April 25th, .	300,	1290,	900 00
Schr. Elizabeth,			
535 May 1,	250,	1000,	750 00
Brig Kini, May 11,	125,	500,	375 00
Sloop Sisters, " 17,	100,	400,	300 00

	1850.	Instead of			
Sch'r Mary,	May 20,	$147,	$588,	$441 00	
Sloop Elizabeth,	June, 27,	250,	500,	250 00	
Bark Victoria,	June, 27,	400,	800,	400 00	
Sloop Polly,	" 17,	56 25,	225,	168 75	
	Brig Treaty,				
536	June 27,	75,	150,	75 00	
	Brig Adela,				
	June 27,	1,037 88,	2075 75,	1,037 87	
Sch'r Lahaina,	June 27,	423 50,	847,	423 50	
3d qr., 1850, Schr.					9,797 00
Two Sisters, July 2,		62 50,	250 (difference),		187 50
					$9,984 50
537	Amount charged by him, for fines imposed for smuggling and violation of passenger act, per Abstract No. 11, ...				1,150 00
					11,134 50
					51,782 38

(*c*) Amount stated in Abstract accompanying Abstract F, 2 qr., 1850, as received per Schooner Elizabeth, June 27, 1850, no part of which is credited in Abstract F, ... 1,000 00

Seized vessels and merchandise, viz.:

538 The following sums charged as expenses incurred by him in relation to the seizure of vessels and merchandise, against which no decree of condemnation has been rendered:

2 qr. 1850.

Ship Edward, W. C. Nye, for lighterage,	5,018 65	
Ditto, W. Webster, for storage, . .	9,000 00	
Ditto, Glen & Co. for storage, . .	6,953 08	
Ditto, W. C. Nye, for breaking bulk, &c.,	1,000 00	
		21,971 73
Brig Lalla, W. C. Nye, for lighterage,	1,321 95	
Ditto, Glen & Co. for storage, . .	5,988 54	
		7,310 49

539	Brig Ebenezer, J. W. Webster, for storage, .	$32 00	
	Ship Blakely, Blake & Co. for storage, ...	1 80	
	Bark Joseph Albino, J. James, as cook, ...	128 00	
			29,444 02

1 qr. 1851.

Amount charged by him as disbursements on account of seized merchandise, per Abstract, but for which no vouchers have been rendered, ... 47,352 33

The following sums improperly credited to him in previous statements:

2 qr. 1850.

	Glen & Co., for keeping horses per Ship Edward, .	25 00	
540	Scooffy & Kelsey, for advertising, &c., per Ship Edward, . .	194 00	
	Zuid Pool, for lighter to water Brig Joseph Albino, ...	15 00	
	Scooffy & Kelsey, for advertising per Bark Louisa Maria, . . .	8 00	
	George Rees, for lighterage per Bark Roche De St. Malo, . . .	750 00	
	T. G. Robbins, for hauling per Bark Roche De St. Malo, . . .	300 12	
	George Rees, for lighterage per Ship Chili, . .	349 88	
	George Rees, for lighterage per Ship Tarolinta, .	270 00	
	William Webster, for storage per Ship Chasely,	63 00	
	Faulkner & Leland, for advertising per 3 vessels, .	6 00	
			1,990 00

3 qr. 1850.

541	Faulkner & Leland, for advertising per Brig		

Pearl, Ship Ceres, Brig Lalla, and Brig Ocean,	$8 00		
Scooffy & Kelsey, for advertising, &c., per Brig Lalla,	194 00		
George Rees, for lighterage per Ship C. D. Tahite,	135 00		
Patrick Logan, for hauling per Ship E. Archer,	30 00		
George Rees, for lighterage per Brig Dorset,	30 00		
Lyman Moury, for hauling per Bark Cromwell,	4 00		
Wm. Rowland, for lighterage per Bark Cromwell,	16 00		
Wm. Rowland, for lighterage per Ship Valiant,	22 00—439 00	2,429 00	$79,225 35
542 (*d*) Amount paid him by C. W. Lawrence, late Collector of N. York, per order of the Comptroller of the Treasury, dated 3d April, 1849, not credited by him,			6,500 00
Amount charged by him in 1st quarter, 1851, as money stolen from A. Randall, Deputy Collector at Monterey,			8,110 29
Amount charged to the Collector in 1st quarter, 1851, as received for rent of Public Reservations per Certificates of S. Woley, William E. Stoutenburg, Amelia Cole, and C. P. Kimball, not credited by 543 him,			5,661 00
			752,279 02
Deduct the following sums, short charged by him for marine hospital disbursements, viz.:			
3d quarter, 1850,	38 93		
4th " "	50 04—88 97		
Salary of the Collector, from 12th Nov., 1849, to January, 1851, inc.,	1,762 13		
Less amount charged by him in 4th quarter, 1850,	1,000 00—762 13		
544 This amount credited to him in this statement, being part of a bill, now for the first time presented by him, for expenses, from Washington City to San Francisco, not charged by him in his account current,		494 12	1,345 22
			$750,933 80

Treasury Department, First Auditor's Office, December 24, 1851.
M. H. MILLER.

Office of Commissioner of Customs, December 26, 1851.
J. R. McCORKLE.

No. 13,387.

TREASURY DEPARTMENT, First Auditor's Office,
February 25th, 1853.

545 I have examined and adjusted the accounts of James Collier, late Collector of the Customs for the District of Upper California, in the State of California, under his official bond, dated 3d April, 1849, and find that he is chargeable,

To balance of his account, per report No. 12,293,	$750,933 80
Dollars,	750,933 80

I also find that he is entitled to credit, viz.:

By payment to Inspectors, &c.,	$1,826 42
Contingent expenses,	102,066 64
Costs of suits,	926 67
546 Fines, penalties, and forfeitures,	51,794 31
Salary of Collector from 3d April to 11th Nov., 1849,	912 96
Amount of special deposits accounted for,	405,948 80
Amount improperly charged to him in 1st quarter, 1851, as received for rent of public reservations. See affidavit of E. D. Collier,	5,661 00
And that the balance due the United States amounts to,	181,797 00
Dollars,	750,933 80

547 As appears from the statement and account herewith transmitted for the decision of the Commissioner of the Customs thereon.

T. L. SMITH,
Auditor.

To JAMES N. BARKER, Esq.,
Commissioner of Customs.

Balance brought down,	$181,797 00
Add fines, penalties, and forfeitures, over credited,	34,915 43
	$216,712 43

Office of Commissioners of Customs. Admitted and certified as corrected, March 7th, 1853.

J. N. BARKER,
Acting Commissioner of Customs.

NATHAN SARGEANT, Esq.,
Register of Treasury.

The balance due the United States, per his account, dated 12th Feb. 1853, is, . . .			$80,493 78
Add the following sums overcharged by him, 4th qr. 1849, as payments to Inspectors, &c., viz.:			
To A. Kintzing, as Inspector, from 1st May to 12th Oct., 1849, .	$495 00		
Amount allowed from 3d May, date of oath of office, . . .	489 00		
		$6 00	
To J. A. Collier, as Inspector from 3d April to 11th Nov., 1849, .	669 00		
Amount allowed from 13th April, date of oath of office,	639 00		
		30 00	
To E. D. Collier, as Deputy Collector, from 3d April to 11th Nov., 1849, ...	608 33		
Amount allowed from 14th April, date of oath of office, . .	578 42		
		29 91	
Add the following sums charged by him for tonnage and light money refunded, viz.:			65 91
In 2d qr., 1850. Per Mexican Brig Dos Amigos, ...	97 00		
Less amount credited by him as received, ...	95 00		
3d qr., 1850. J. P. D. Green,		2 00	
charged also by him in 2d qr., 1850, . . .	98 56		
		98 56	
			100 56
To amount charged by him in 1st quarter, 1851, as "Disbursements on account of seized Mdse.," suspended for statement of the expense of storage in each case, on receipts of which, the question whether the late Collector is entitled to a moiety of the net proceeds will be acted upon by the Department,			47,352 33
"Amount charged by him as his proportion of bonds taken for vessels and cargoes seized, which seizures were declared legal by the Secretary			

of the Treasury being one-half"—suspended until said bonds are collected; no portion being distributable until it is received, ... $12,300 00

"Amount charged by him as his share of penal duties, collected and paid into the Treasury." Disallowed. The Department has never recognized said additional duty as a *distributable* penalty. The 3d section of the Act of February 11th, 1846, directly prohibits the additional duty imposed by the
552 17th section of the Act of August, 1842, being deemed a penalty for the purpose of being distributed to any officer of the Customs. The 20th section of the Act of March, 1st, 1823, specially provides for the *distribution* of the additional duty imposed by the 13th section of that Act; and the uniform practice of Congress has been specially to provide for the *distribution* of all penal duties or penalties when distributable. As no such provisions for the distribution of the 20 per cent. additional
553 duty imposed by the 8th section of the Act of July 30th, 1846, exists, it is clear that this claim is illegal, and it is therefore disallowed, . 14,000 00

"Amount charged by him in this account for commission, being 3 per cent. on all his collections. Disallowed. When the late Collector shall have rendered, as required by the 12th section of the Act of May 7th, 1822, and called for by the Commissioner of Customs, a statement on oath of his official fees, the sum of $6000 dollars per annum,
554 the maximum fixed by the 5th section of the Act of March 3d, 1851, will be allowed out of said fees and commissions, ... 63,250 95

$217,563 53

Deduct the following sums short charged by him for Marine Hospital disbursements, viz.:

In 3d quarter, 1850, .	$38 93	
" 4th " " .	50 04	88 97
Collector's salary short charged by him,		762 13
		851 10

555 $216,712 43

Treasury Department, First Auditor's Office, February 25th, 1853.

M. H. MILLER.

Office of Commissioner of Customs, March 7th, 1853.

J. R. McCORKLE.

(Copy.)

TREASURY DEPARTMENT, REGISTER'S OFFICE,
September 6th, 1853.

I, C. T. Jones, Acting Register of the Treasury, certify the annexed to be substantial copies of original papers on file in this office, excepting that the statements of the Auditor accompanying the several reports are not copied.

(Sigr d) C. T. JONES,
Acting Register.

"*Schedule No.* 23."

(Copy.)

556 TREASURY DEPARTMENT, OFFICE OF COMMISSIONER OF CUSTOMS,
June 17th, 1851.

SIR:—Your accounts of the Customs, from the 12th of November, 1849, to the 14th of January, 1851, have been adjusted at the Treasury, and a balance of $791,065 31, stated to be due from you to the United States, that is explained by the statement of differences which has been handed to you.

Very respectfully
Your obdt. servt.,
C. W. ROCKWELL,
Commissioner of Customs.

JAMES COLLIER, Esq.,
Late Collector of the District of Upper California.

"*Schedule No.* 24."

(Copy.)

557 TREASURY DEPARTMENT, OFFICE OF COMMISSIONER OF CUSTOMS,
September 25th, 1851.

SIR:—On the further adjustment of your accounts, under bond of 3d April, 1849, a balance has been found to be due from you to the United States of $789,925 35, and as you state no balance, the differences amount to that sum.

Which differences arise from the following disallowances, viz.:

Payment to Inspectors, &c., viz.:

The following sums charged by you for payments to officers
558 for time prior to 12th November, 1849, the day on which they entered upon their duties.

4th quarter, 1849, Abraham Kintzing, as Inspector from 1st May to 12 October, 1849,	$495 00
4th qr., 1849, John D. Collier, as Inspr. from 3d April to 11th November, 1849, . . .	669 00
4th qr., 1849, E. D. Collier, as Deputy Collector, from 3d April to 11th Nov. 1849, . . .	608 33
	$1,772 33

2962

E. D. Collier, as book-keeper from 12th November, 1849, to 31st January, 1850, he having
559 been paid for same time at a higher compensation as Cashier, ... $526 66

Amount charged by you in 2d quarter, 1850, as paid A. W. Wyley, as Inspector for April, 1850, no voucher, ... $120 00

Amount charged by you in 1st quarter, 1851, as paid A. Randall, as Deputy Collector at Monterey, from 4th December, 1849, to 4th January, 1851, at $3000, instead of $1000 per annum, as provided by law. Difference, 2,162 80

2,282 80

Disbursements for Revenue Boat Argus, viz.: Amount charged on pay-rolls for October, November, and December, 1850, as equivalent for liquor to officers, ... 7 35

Disbursements on account of contingent expenses, viz.: The following sums charged by you for rent of Custom House. See letter of the Secretary of the Treasury, dated 11th April, 1850, 1st qr. 1850, Thomas G. Wells, for February and
561 March, 1850, ... 14,000 00

2d qr. 1850, Thomas G. Wells, for April and May, 1850, ... 14,000 00

28,000 00

The following sums charged by you on the 4th quarter, 1850: Wm. Rowland, for lighterage of brandy from Ship Jane Remerine, ... 3 75

George E. Yates, for hauling from Brig Vixen, ... 3 00

6 75

Amount charged by you in 1st quarter, 1851, as paid John C. Hayes, for expenses of transporting five fe-
562 males, under a writ of Habeas Corpus, ... 150 00

Amount charged by you in 1st qr. 1851, as paid James Collier, "for indemnity for suits now pending, claims and reclamations for goods seized and sold on account of the United

States, and for commission on moneys received and disbursed for the United States." See 2d sec. Act of 3d March, 1839, ... 163,500 00

Disbursements on account of "Incidental Expenses," viz.: The following sums charged by you: ——— $163,656 75

(Amount carried forward) 196,245 89

553 3d qr. 1850, Samuel Strong, for building wharf, ... 22,837 50

4th qr. 1850, James Rowland, for taking lumber out of water, . . 1,400 00

Josiah Morgan for lighterage, 15 00

1st qr. 1851, William Webster, for storage, . . 865 00 ——— 1,415 00

H. K. McLean, Vouchers Nos. 2 and 3. (See statements accompanying)

564 for storage, . . 43,405 28 ——— 44,270 28

Disbursements for "Special Deposits," viz.: The following sums charged by you; no Vouchers having been rendered: ——— 68,522 78

3d quarter, 1850, ... 162,450 75

4th do. 1850, ... 205,154 45

1st do. 1851, ... 53,759 15

391,364 25

Amount received by you per Abstract, for excess of deposits for unas-

565 certained duties, but not credited, tonnage and light money refunded, viz.: 14,584 55—405,948 80

2d qr. 1850, per Mexican Brig Dos Amigos, ... 97 00

Less amount credited as received 23d Jan., 1850, . 95 00

3d qr. 1850, J. D. P. Green, ——— 2 00

charged also in 2d qr. 1850, . . 98 56 —— 100 56

Fines, penalties, and forfeitures, viz.: The following amounts short credited; being the proportions re-

566 tained by the Collector, and paid to Captain A. V. Frazer, of the Revenue Cutter Lawrence:

2d qr. 1850, Brig Klinket, 13th Feb., 1850,

	$412 75, instead of $1651. Difference,	1,238 25	
	Brig Felix, 2d March, 1850, $131, instead of $524. Difference, ...	393 00	
567	Launch Charlotte, 2d March, 1850, $200, instead of $800. Difference,	600 00	
	Brig Rambler, 6th March, 1850, 389 87, instead of $1,159 50. Difference, ...	1,169 63	
	Schooner M. Del Fairo, 3d April, 1850, $250, instead of $1000. Difference,	750 00	
	Sloop Annie K., 8th April, 1850, $175, instead of $700. Difference, . .	525 00	
568	Schooner P. De Inquinque, 25th April, 1850, $300, instead of $1200. Difference, ...	900 00	
	Schr. Elizabeth, 1st May, 1850, $250, instead of $1000. Difference, . .	750 00	
	Brig Kini, 11th May, 1850, $125, instead of $500. Difference, ...	375 00	
	Sloop Sisters, 17th May, 1850, $100 instead of $400. Difference, . . .	300 00	
	Schooner Mary, 20th May, 1850, $147, instead of $588. Difference, . .	441 00	
569	Sloop Polly, 17th June, $56 25, instead of $225. Difference, . .	168 75	
	Schooner Elizabeth, 27th June, 1850, $250, instead of $1000. Difference, . .	750 00	
	Bark Victoria, 27th June, 1850, $400, instead of $800. Difference, . . .	400 00	
	Brig Treaty, 27th June, 1850, $75, instead of $150. Difference, . . .	75 00	
570	Brig Adela, 27th June, 1850, $1,037 88, instead of $2,075 75. Difference, ...	1,037 87	
	Schooner Lahaina, 27th June, 1850, $423 50, instead of $847. Difference,	423 50	
	3d qr. 1850, Schooner Two Sisters, 2d July, 1850, $62 50, instead of $250. Difference, ...	187 50	
			$10,484 50
571	Amount charged by you for fines imposed for smuggling and violation of Passenger Act, per Abstract 11, . .	1,150 00	
	Amount stated in Abstract, accompanying Abstract F, 2d qr. 1850, as received per Ship Elizabeth, June 27th, 1850, no part of which is credited in Abstract F, ...	500 00	
			1,650 00

	Amount carried forward, . .		$682,952 53
	Amount brought forward, . .		$682,952 53
	Seized vessels and merchandise, viz.:		
	The following sums charged as expenses incurred by you, in relation to the seizure of vessels and merchandise, against which no decree of condemnation has been rendered.		
	2d qr. 1850, W. C. Nye, per Ship Edward, for lighterage, ...	5,018 65	
	Do. do. W. Webster, do. for storage,	9,000 00	
	Do. do. Glenn & Co. do. do. .	6,953 08	
	Do. do. W. C. Nye, do. for breaking bulk, &c.	1,000 00	
	Do. do. W. C. Nye, per Brig Lalla, for lighterage, ...	1,321 95	
	Do. do. Glenn & Co., do. for storage,	5,988 54	
573	Do. do. J. W. Webster, per Brig Ebenezer, for storage, . .	32 00	
	Do. do. Glenn & Co., Ship Blakely for storage, ...	1 80	
	Do. do. J. James, Bark Joseph Albino, as cook, ...	128 00	
			29,444 02
	1 qr. 1851, amount charged by you as disbursements on account of seized merchandise, per Abstract, but for which no Vouchers have been rendered, . .		47,352 33
	The following sums improperly credited in previous statement:		
	2d qr. 1850, Glenn & Co., per Ship Edward, for keeping horses, . .	25 00	
	Do. do. Scoffy & Kelsey, do. do. for advertising, &c. . . .	194 00	
574	Do. do. Store Ship, Zuid Pool, for lighter to water Brig Joseph Albino, ...	15 00	
	Do. do. George Reese, per Bark Roche De St. Malo, for lighterage,	750 00	
	Scoffy and Kelsey, per Bark Louisa Maria, for advertising, ...	8 00	
	Talmadge G. Robins, per do. for hauling,	309 12	
	George Rees, per Ship Chili, for lighterage,	349 88	
	Ditto, per Ship Tarolinta, do.	270 00	
575	W. Webster, per Ship Chasely, for storage, ...	63 00	

Falkner and Leland, per 3 vessels, for advertising, ...	6 00	
		$1,990 00
3d quarter, 1850, Ditto, per Brig Pearl, Ship Ceres, Brig Lalla, and Brig Ocean, for advertising, ...	$8 00	
Scoffy and Kelsey, per Brig Lalla, for advertising, &c., ...	194 00	
George Rees, per Ship C. D. Tahite, for lighterage, ...	135 00	
Patrick Logan, " " E. Archer, hauling,	30 00	
George Rees, per Brig Dorset, lighterage,	30 00	
Lyman Mowry, Bark Cornwell, for 576 hauling, ...	4 00	
William Rowland, do. for lighterage,	16 00	
William Rowland, per Ship Valiant, do.,	22 00	
		439 00
Amount charged by you in account current, 4th quarter, 1850, as disbursements on account of unclaimed merchandise (no vouchers), ...		77 28
Amount paid you, by C.W. Lawrence, late Collector of New York, per order of the Comptroller of the Treasury, dated 3d April, 1849, not credited by you, .		6,500 00
Amount charged by you, in 1st quarter, 1851, as money stolen from A. Randell, Deputy Collector, at Monterey, ...		8,110 29
Amount charged to the Collector on 1st quarter, 1851, for rent of old Custom House to 577 Palmer, Cook & Co., from 1st February, to 31st December, 1850, as stated in your letter to Gilbert Rodman, under date of 29th May, 1850, not credited by you (see letter on file in Secretary's Office), ...		8,250 00
Amount charged to the Collector in 1st quarter, 1851, as received for rent of public reservations, per 578 certificates of S. Woley, William E. Stoutenburg, Amelia Cole, and C. P. Kimball, not credited by you, ...		5,661 00
		$790,776 45
Deduct the following sums, short charged by you, for Marine Hospital disbursements, viz.:		
3d quarter, 1850, . .	$38 93	
4th do. do. . .	50 04	
		88 97

	Salary of the Collector from the 12th November, 1849, to 14th January, inclusive,	$1,762 13	
579	Less amount charged by you, in 4th quarter, 1849,	1,000 00	
		762 13	
			851 10
			$789,925 35

In the statement of differences furnished you when you were last in Washington, there were several amounts that it was supposed you could explain, and, consequently, they were suspended for that purpose. As you have not furnished any explanation of these, they are necessarily disallowed in the statement now furnished.

It is my duty to direct you to deposit the balance, above stated, with the Treasurer of the United States, or to his credit, with
580 either of the Assistant Treasurers at New York, Boston, or Philadelphia.

I am, very respectfully,
Your obedient servant,
C. W. ROCKWELL,
Commissioner of Customs.

JAMES COLLIER, Esq.,
Late Collector of Upper California,
Steubenville, Ohio.

"*Schedule No.* 25."

(Copy.)

Statement of all moneys received from sales of liquors seized and sold by order of James Collier, Collector of Customs for the District of Upper California.

	Time when sales were rendered.	Name of Vessel.	Whole Amount.	Half of the Amount.
	1850.			
581	Feb. 9.	Brig Giraffe, for account of Messrs. Robt. and Edward Toothe,	$4,139 09	$2,069 55
	March 13.	Schr. Caroline and Johanna,	310 62	155 31
	April 18.	Ship Charles Quint,	700 00	350 00
	June 1.	" Chili,	327 60	163 80
	" 27.	Bark Rocher de St. Malo,	4,549 00	2,274 50
	1.	Ship Tarolinta,	4,418 10	2,209 05
	1.	Brig Treaty,	103 96	51 98
582	May 17.	Bark Thames,	605 00	302 50
	June 1.	Ship Edward,	2,913 52	1,456 76
		Java,	3,232 00	1,616 00
	13.	"	9,531 05	4,765 52
	1.	Bark Clarclino,	742 75	371 38
		Cuthbert Young,	1,113 27	556 63
		Franciska,	62 55	31 28
583		David Malcolm,	86 23	43 11
		Brig Jane,	350 21	175 11
		Bark Adolph,	47 29	23 64
		Brig Lady Hondon,	66 45	33 23
		Ship Surprise,	205 53	102 76
		Bark Hector,	570 04	285 02

1850.					
June 1.		Ship Alcibiade,	$2,159 35	$1,079 68
	13.	"	2,992 90	1,496 45
584	1.	Success,	1,376 32	688 16
		Bark Caroline Amalia,	405 02	202 51
		Ship Cecrops,	138 32	69 16
January 8.		Schooner Coquette,	708 40	354 20
June 1.		"	325 88	162 94
		Bark Amalia,	2,957 83	1,478 92
		Chance,	87 60	43 80
585		Schooner Black Dog,	677 63	338 81
		Para,	678 60	339 30
		Bark America,	1,501 61	750 81
		Johanna,	634 63	317 31
		Ship Androklos,	744 64	372 32
		Brig Giraffe,	82 49	41 25
		Bark Duchess of Clarence,	544 56	272 28
586		of Cross Hobson & Co.	32 77	16 38
		Ship Wodan,	1,296 75	648 38
		Bark Schedule,	27 30	13 65
		Brig Helen Stewart,	8 08	4 00
		Schr. Ricardo,	68 25	34 12
587		Bark Will Watch,	204 75	102 38
		Chasely,	453 85	226 92
		Ship Antelope,	91 74	45 87
	27.	Valiant,	2,175 42	1,087 71
July 8.		Chili,	542 25	271 13
		Bark Rocher De St. Malo,	831 19	415 59
Sept. 20.		Cornwall,	247 50	123 75
588	26.	Schr. Flora,	1,608 00	804 00
July 31.		Brig Lady Houden,	37 80	18 90
		Bark Johanna,	1,520 40	760 20
		Ship Androklos,	888 30	444 15
		Gange,	963 74	481 87
		Georges,	8 47	4 24
		"	709 58	350 79
Sept. 20.		"	709 58	350 79
July 31.		Bark Inchinnan,	145 60	72 80
589		Daniel Grant,	7 00	3 50
		Ship Daniel Malcolm,	619 50	309 75
		Bark Lysia,	35 00	17 50
		Hamburg,	111 30	55 65
		Brig Cuthbert Young,	168 00	84 00
		Helen Stewart,	19 25	9 62
		Treaty,	28 14	14 00
		Giraffe,	359 10	179 55
590		Bark Alcibiade,	474 25	237 13
		"	2,143 58	1,071 79
		Franciska,	157 50	78 75
		Abeille,	432 00	216 00
		Jane,	175 35	87 67
		Schr. Pera,	541 38	270 69
		" "	20 24	10 12
		Ship Cachalot,	39 55	19 78
		Cecrops,	504 00	252 00
591		Schr. Hopewell,	108 50	54 25
		Bark Carolina Amalia,	342 30	171 15
		Brig Lalla,	8,466 71	4,233 35
		Will Watch,	105 00	52 50
		Experiment,	46 20	23 10
592	July 31.	Brig Experiment,	11 80	5 90
		Bark Chance,	256 20	128 10
		America,	1,273 30	636 65
		"	321 90	160 95
		Duchess of Clarence,	1,090 60	545 30
	Sept. 20.	" "	4 14	2 07
	July 31.	Pilgrim,	315 00	157 50
		Surprise,	198 66	99 33
593	Aug. 12.	John Calvin,	1,460 00	730 00

1850.				
Sept. 20.	Bark Elizabeth Archer,	$347 44	$173 72
	Brig Cecilia,	148 90	74 45
	Ship Ralph Bernal,	478 36	239 18
	Brig Dorset,	279 36	139 68
	Schooner Courier De Tahiti,	486 05	243 02
	Bark Schilde,	14 72	7 36
594	Diana,	75 28	37 64
	Adolph,	24 00	12 00
	Brig Sabina,	7 73	3 87
	Schooner Coquette,	16 03	8 01
	Brig Nordpoleon,	40 48	20 24
	Ship Success,	190 56	95 28
Oct. 9.	Bark Agincourt,	514 00	257 00
12.	Johanna,	324 02	162 01
	America,	109 15	54 58
595	Schooner Pera,	54 20	27 10
Nov. 22.	Bark Merlin,	837 54	418 77
Dec. 3.	Ship Alcibiade,	202 86	101 43
	Bark Duchess of Clarence,	214 19	107 09
18.	Mary Muir,	239 20	119 60
1851. Jan. 6.	Schooner Pera,	95 00	47 50
	Ship Alcibiade,	625 00	312 50
596	Cachalot,	252 00	126 00
	Brig Cecilia Louisa,	120 00	60 00
9.	Ship Rocher De St. Malo,	3,553 00	1,766 50
	Chili,	3,668 50	1,834 25
		$94,704 66	$47,352 33

Received, San Francisco, January 11th, 1851, of James Collier, Collector, forty-seven thousand three hundred and fifty-two dollars and thirty-three cents, in full of the account.

J. COLLIER.

(Copy.)

WASHINGTON CITY, November 19th, 1850.

597 Sir,—As to the item, "Amount charged on account of seized merchandise," $47,352 33, and for which you say no voucher has been rendered, I have to say, that for the payment of the sum there stated as received by me, duplicate vouchers were executed, one of which, I supposed, had been forwared to your department. I enclose you herewith a statement in detail of the various sales which make up the sum due me, and have signed another receipt, being the third one for the same sum, which I hope will be satisfactory.

598 Very respectfully,

J. COLLIER,

Late Collector, Upper California.

To C. W. ROCKWELL, Esq.,
Commissioner of Customs, Washington City.

"*Schedule No. 26.*"

(Copy.)

WASHINGTON CITY, 20th Nov., 1851.

Sir: I herewith enclose detailed answers to the several items of the account rendered against me from your Department.

It is perhaps proper, in submitting these answers, to say, that I think I have some right to complain, that if there was any just reason to reject or suspend these large items, some of which date back as far as 1849, and amounting, in the aggregate, to
599 more than half a million of dollars, it should have been reserved until after my official term was ended, and I had left California some four months, before a word of objection to my account, with the single exception of disbursements to rent, is made, although returns were regularly forwarded every quarter to the Department.

It will be remembered, now, that I am separated from all the books and records of the Custom House, and that some of them have been since destroyed by fire.

On the receipt of my quarterly returns, if any errors were
600 discovered, or further vouchers were required, and I had been promptly notified, a feeling of conscious rectitude enables me to say that I should have been able to give satisfactory answers.

In the receipts and disbursements of more than two millions of dollars, with all the difficulties and embarrassments of my peculiar situation, at that distant quarter of the world, without the aid of books, the form of entries, or the means of obtaining them, and without the aid of any advice from the Department; acting in the varied capacity of Collector, Naval Officer, Surveyor, Appraiser, Judge, and Attorney, it would be, indeed, singular if errors had not
601 been occasionally committed: indeed, it is now a source of proud satisfaction to me that I have made so few.

It will be seen, by a reference to the two accounts rendered by your Department against me, that some discrepancies, even in that quarter, appear. If, with the aid of all the facilities and experience of your Department, errors will sometimes occur, you will, I think, find some apology for even larger errors in my accounts, made under the disadvantages and difficulties which I need not repeat; yet with all these disadvantages, I must respectfully insist that the
602 answers submitted ought to be deemed satisfactory. It will readily be seen that it is a matter of great importance to me, that the adjustment of my accounts should be made promptly, as I have been held up to the public as a large defaulter, which the account now rendered against me, and which foots up to an alarming amount, might, perhaps in some degree, justify.

It is proper to add, that I have yet in reserve an account against the Department for salary, commissions, expenses, &c., which will be immediately prepared and ready for submission as soon as these suspended items shall be adjusted, and my whole account
603 being properly adjusted, and the balance struck, I am ready, at once, to pay the just balance (if any) which shall be found due from me. To be required to pay, in advance, any considerable portion of the large amount of suspended items, which, as I contend,

are not due to the Department, and trust to the tardy justice or convenience of the Government to refund the money at some future day, would be not only manifestly unjust, but ruinous.

Hoping that all may now be found satisfactory, and that all the accounts may be speedily adjusted,

I am, respectfully, yours,

J. COLLIER.

604 To C. W. ROCKHILL,
Commissioner of Customs, Washington City.

"*Schedule No.* 27."

(Copy.)

WASHINGTON CITY, Nov. 13th, 1851.

Sir: Under the head of "Fines, Penalties, and Forfeitures," are sundry items charged, amounting to the sum of $10,484 $\frac{50}{100}$.

The following statement is submitted, as explanatory of the course pursued by me in reference to the disposition of the several vessels referred to in the several items thus suspended.

Prior to my arrival in California, and assuming the duties of my office as Collector, a practice had been introduced by the Army
Collector of granting licenses to all vessels, no matter to
605 what nation belonging, to engage in the coasting trade, and a large number had been licensed and thus engaged. On assuming the duties of the office, I caused a notice to be published in the several papers in San Francisco, revoking their licenses, and requiring their surrender, and cautioning the owners and navigators of foreign vessels against engaging in, or pursuing this trade, as being in direct violation of law, and advising them that the law would be enforced.

In consequence of the publication of this order, application was made by sundry individuals to Commodore Jones, the Com-
606 manding Officer of the Naval forces in the Pacific, asking his interference and aid in procuring a recall of the notice thus given. A correspondence was had between the Commodore and myself, which has been published by order of Congress, with other papers called for, and which I presume is on file in the Department, and to which I take leave to refer.

It is sufficient now, to say that I declined to revoke that order.

Notwithstanding the notice thus published, and after the lapse of a reasonable period, foreigners, with their vessels under various flags, persisted in this illegal trade, and were consequently seized.
607 If I had permitted this violation of positive law, I should have found it extremely difficult to have enforced any law of the revenue.

The law creating the district of Upper California required that all cases arising in that district for violation of the revenue laws,

should be tried either in the District Court of Oregon, or the District Court of Louisiana, but it made no provision for the service of process, and failed to point out the course to get the parties before either of those courts. My instructions from the Depart-
608 ment required all cases to be sent to Louisiana, that being more convenient to the Department. I need not say that this provision of the law, as well as the instructions from the Department, were wholly nugatory. It could not be done. In this state of things nothing was left me but to lay these vessels up, and there seemed no alternative but that they must become a total loss.

In view of these facts, the owners of those vessels, in every instance, in writing, surrendered the vessel unconditionally to the United States, setting forth that no other, or further litigation, or controversy, should be instituted, and requesting the Collec-
609 tor to have them sold.

These relinquishments were on file in the office, but I believe have been destroyed by fire. I have, I believe, but one; a copy of which is hereunto annexed. The original shall be surrendered to you, if desired. It seemed to me that all these vessels should not be utterly destroyed; and that it was important that they should be employed, if it could, under the circumstances, be done. Nor could I see any objection to it under the circumstances; at all events, the Department was fully advised of the course pur-
610 sued, and no objection was ever made so far as I am advised.

I remark here, that an appraisement was always made of each vessel by competent men.

So much for the sale of these vessels. As to the distribution of the proceeds of sale, the several amounts paid to Capt. A. V. Fraser, of the Revenue Brig Lawrence, were what by law belonged to him and his officers; they having made the seizures and become informers. Captain Fraser is under the orders of that Department, and can, and will, no doubt, on his arrival in the country
611 (and I am told he has been ordered home, and may soon be expected), furnish the Department with the proper vouchers for the distribution of these moneys.

I presume, he (Captain Fraser) will have no objection to have these several items, charged to him, and by him to be accounted for. As to that portion belonging to the Collector, I think no injustice was done by his receipt of what by law belonged to him.

I enclose a letter from Lieutenant Gevin, whom I accidentally met in the city, on this subject.

As to the fines imposed for smuggling, &c., amounting, as
612 per your statement, to the sum of $1,150; the names of the parties, or vessels, are not stated, and I am consequently compelled to rely upon such as I now remember. The British Bark "Elizabeth Archer," was detected in smuggling; and, if my memory is not at fault, a fine of $200 was imposed by me, and paid by Cap-

tain Cobb. I happen to have his letter before me, of which the following is a copy:

"SAN FRANCISCO, June 3d, 1850.

SIR:—I have to acknowledge, that some of the owners on board the British Bark Elizabeth Archer have been engaged and detected in smuggling. I suppose they may have smuggled some twenty cases, more or less, of ale. I regret this; but, desirous to
613 avoid litigation, I have to request that you will assess such fine as in your judgment may be right. I am aware, that the fine can only be inflicted by you, at my own instance, and it is my desire that you should do so. The ale you have possession of, is hereby surrendered, unconditionally.

Respectfully,

CHARLES COBB.

To JAMES COLLIER, Esq.,
Collector."

The original letter, if desired, will be furnished.

I merely add, upon this subject, that Mr. Macoudray, the consignee, accompanied the Captain to the Custom House, and urged upon me to adopt the course pursued.

614 Another case was that of the British Bark "Collooney." The case of this vessel has been under discussion in relation to another matter, and the history of her acts are fully set forth in my Report of 27th January, 1850, on file in the Department, with the opinion of the former Secretary. But, as to the fine, one of the violations of law committed by her was, the leaving the waters of Oregon, and within a Revenue District, without clearing at the Custom House. This was admitted, and the money (five hundred dollars) paid voluntarily. The excuse rendered being, that it was
615 cheaper to pay the fine, than go some two hundred miles to the Custom House. No dispute or question ever rose about it. The paper in relation to it was in the Custom House; whether now there, I cannot say. The Department was fully advised of the case at the time, and no objection made. There was another case of a French ship-master, detected in smuggling and attempting to bribe the Inspector on board. He presented himself at the office with his counsel; submitted a written acknowledgment of
616 his guilt; requested the Collector to assess the fine; was fined accordingly, and the money paid.

I do not now remember the amount of fine, and have not the means of ascertaining without reference to the book in the Custom House, or the papers on file in the Department. But I aver that fines were never assessed by me, unless upon such circumstances, and with the same written appeal to me.

I submit herewith a copy of a letter from the captain, certified as being a true copy from the original on file, by the Assistant Secretary, as to this last-mentioned case.

You will see, sir, why this fine was imposed, and the rea-
617 son why it was assessed by me. I doubt not, you will admit the propriety of the cause pursued.

N. B. I enclose herewith a letter, addressed to me by C. L. Emmit, Esq., the owner of the Schooner Charlotte.

Very respectfully,

J. COLLIER,
Late Collector, Upper California.

To C. W. ROCKWELL, Esq.,
Commissioner of Customs, Washington City.

"*Schedule No.* 28."

(Copy.)

WASHINGTON CITY, Nov. 17, 1851.

Col. James Collier, late Collector of Upper California.

DEAR SIR,—In answer to your several inquiries, I take pleasure in stating that I was, during the period of your Collectorship, and still am, 3d Lieutenant in the Revenue Cutter Service, and
618 was then attached to the Revenue Brig Lawrence, Captain A. V. Fraser.

That I have examined the list of vessels in the account exhibited by you, furnished by the Treasury Department, against you, in which you are charged as short credited, being the proportions retained by the Collector, and paid to Captain A. V. Fraser, and which is there charged as amounting in the aggregate to $10,484 50.

I well recollect most of the vessels by name, and know that the proportion of the money belonging, by law, to Captain A. V. Fraser, and the officers on board of his vessel, and received by Cap-
619 tain Fraser, for the share of officers of his vessel, was regularly distributed among the officers according to their respective proportions.

That I received uniformly my proportion as 3d Lieut., and know that the other officers on board likewise received their several proportions, for which, receipts were always signed by the respective officers in each case. The receipts uniformly specified the names of the vessels seized, and the amount received by each officer, which receipts were retained by Captain Fraser, and are, doubtless, still in his possession, unless they may have been returned to the Department.

I am, sir, your obedient servant,

620 A. J. GEVIN,
3d Lieutenant.

"*Schedule No.* 29."

(Copy.)

WASHINGTON CITY, Nov. 17th, 1851.

SIR,—The various disbursements made by me for storage, may as

well be submitted upon a general statement of the condition of the port of San Francisco, and the facts as they existed, as such statement is applicable to and will cover all these expenditures.

I remark, then, in the first place, that prior to my arrival in California, Mr. Harrison, who had been acting as Collector by virtue of an appointment from the commanding officer of the army on that station, had caused a large amount of goods, in bond for the
621 payment of duties and otherwise, to be stored on the Ship Zood Pool. There were also eighteen other vessels having bonded goods on board. The amount of goods on board the "Zood Pool," in charge of H. H. McLean, and the length of time they had been on board this ship, which was used as a bonded warehouse, I did not then know, nor had I the means of ascertaining. The books and records in the office had been removed by Mr. Harrison. The pressure of business in the office occupied my whole time,
622 day and night, and it was impossible for me to understand everything connected with the office in a single day. I suppose it will be admitted, that to a port in the Pacific, of the magnitude of San Francisco, the third, I believe, in the Union, that it was the desire of the Government to extend such facilities in aid of commerce as they were authorized to extend, and were so liberally extended to the Atlantic ports. A port where there were some four or five hundred vessels, most certainly required warehousing facilities—the law permits it, and the interest of commerce required it. A safe and suitable warehouse could not, at that time,
623 have been procured without the payment of some eight or ten thousand dollars per month. Indeed, I do not know that there was then, in fact, a suitable building in San Francisco. Under these circumstances I permitted goods to be sent to that ship for storage. The Elizabeth, owned by William Webster, was also used for a like purpose, and from the same necessity. Experience has demonstrated the wisdom and propriety of this course.

The destructive fires that have so often converted millions
624 of property on shore to ashes, has not yet reached the shipping in the harbor. The cargo of the "Lalla" was stored on shore by Glen & Co. A portion of this cargo, as well as that of the "Edward," were burned. It is stated that there had been no "decree of condemnation" against the "Lalla." The facts in relation to that vessel are as follows. She was a British vessel, having on board a cargo, not the product of Great Britain, and arrived in port prior to the first of January, 1850. The question as to the legality of this seizure was, by agreement of the parties (by whom the bonds for that purpose were executed), submitted to the Secretary of the Treasury, and his decision was to be final
625 and conclusive in the premises. The Secretary did determine that the seizure was a lawful one, and it cannot now be said, that no "decree of condemnation" has been rendered. The parties are estopped by their own submission from making such plea.

As to the lighterage, there are divers disbursements made by me for this item, all of which are suspended. That of the "Edward" was made under this state of facts. That ship was under the French flag, and brought a cargo, consisting of brandies, in cases of one dozen each (which, by law, were forfeited, and which also
626 worked a forfeiture of the ship), lumber from Chili, flour, &c. The ship no sooner arrived in port, when she was abandoned by her crew, leaving no one on board but the Captain and a boy. The change (if, indeed, there was a change, a point to which I shall again allude), which had taken place in our commercial relations with France, in July previous, and which, it seems to have been held, justified this irregular trade, had never been communicated to me by the Department, nor was I advised of it until the last of April, or first of May following.

The Captain repeatedly called upon me to land his cargo, or that portion of it which it was presumed he had no right to bring.
627 It was in the winter, and in the midst of the rainy season, when the shipping in that harbor is greatly exposed to loss and damage from the high winds so prevalent on that coast. The brandies were unconditionally surrendered, as being in contravention of law, and so admitted. What in such cases was the duty of the Collector? There was a foreign ship in an American port, abandoned by her crew, with a cargo on board, and the ship itself a valuable one. I thought it my duty to discharge the cargo, but I was dissatisfied with the charge for lighterage and breaking bulk,
628 and therefore declining to pay the amount, a suit was brought against me by Nye. This suit was defended, and counsel fees paid by me, amounting (if I recollect aright) to $250. I was therefore compelled to pay, or go to prison, with which I was threatened. I will remark, that the amount of the charge for this service was reduced on that trial some two thousand dollars. I will remark further, that before the courts as then constituted, the Collector had but feeble hopes of escape. The Judges held their commissions from General Riley, of the army, and pretended to be governed
629 exclusively by Mexican laws, claiming, that as California had not been organized as a Territory by the Congress of the United States, or admitted into the Union as a State, that the laws of the United States had no validity there. My position was a peculiar one, and unlike that of any other public officer in the history of this or any other country. I was compelled to assume responsibilities, or close the office. I was continually harassed with lawsuits, and could not avail myself of the law authorizing the transfer of suits brought against Collectors, to the Courts of the
630 United States. I was threatened with imprisonment by the Courts, because I would not surrender the register of foreign vessels, sold by their decrees, and give to such vessels American papers, and the American flag. I make this statement to show the

difficulties and embarrassments which surrounded me, and as a justification of my conduct and action in the particular cases referred to, and in many others. I could not take counsel from the Department. I was eight thousand miles distant, and with but one mail per month, and could not get a reply to my communications at that time
631 in less than three, and indeed sometimes for four months. Under such circumstances, well might the Department employ the language used in the general Letter of Instructions, under date of the 3d of April, 1849, that "in view of the great distance of your district from the seat of Government, and the consequent infrequency and uncertainty of regular communications, much must be left to your good judgment and discretion."

That in all my official acts this discretion was employed for the best interests of the Government, at least so far as honesty of purpose is involved, and in aim of the rapidly increasing com-
632 merce of the Pacific, is a question which I would most gladly submit to the judgment of the merchants with whom I was daily and hourly transacting business.

I wish now to add, that it appears by the official correspondence to be found in the Department here, that on the 27th June, 1849, the French Minister addressed the Secretary of the Treasury upon the subject of the right of French vessels to touch at intermediate ports, and bring to California articles not the growth and manufacture of France, under the provision in the act of 1st March,
633 1817, upon the ground that France, by law, allowed reciprocal privileges to the vessels of the United States. To this the Secretary answers, as will be seen under date of 6th July, 1849, some two months after I left for California, that in consideration of this assurance received, that the laws of France did not prohibit American vessels from such indirect navigation to and from France, the same privilege is confirmed to French vessels, &c. It would seem from the tenor of this correspondence, that the Secretary of the Treasury was, up to that date, ignorant of the existence
634 of such French law, nor indeed does any copy of the law appear to have been furnished, but only the assurance that such law existed. But however the fact may have been, no instructions or information upon the subject was ever furnished to me, and I was left to infer that no such reciprocal law existed, and to act under the law and commercial regulations as they existed at the time I left for California.

Very respectfully,
J. COLLIER,
Late Collector, Upper California.

To C. W. ROCKWELL, Esq.,
Commissioner of Customs, Washington City.

"*Schedule, No.* 30."

(Copy.)

WASHINGTON CITY, Nov. 20th, 1851.

635 SIR:—In regard to the charge against me, in your "Suspended Account," for the sale of the Sloop Elizabeth, as of June 27th, and it is alleged that no part of the proceeds, $500, were credited to the United States. There is an undoubted mistake in this matter. There were two vessels of the same name, one a Sloop, and the other a Schooner. The Elizabeth sold, as I believe, for $500, instead of $1,000, as stated, and the Government was credited for one-half. By reference to Abstract F, of 2d Quarter, 1850, you will find that the Elizabeth was also sold for, if I am
636 correct, $1,000, and the one-fourth of this sum credited to the United States. The same vessel could not have been twice sold; and Abstract F, shows the sale to have been on the 1st May, and certainly she could not have been again sold on the 27th June. There were but the two vessels of that name, one bringing $500, and the other $1,000 if I recollect right. The Government has credit for its proportion of these sums. This is my recollection of this subject. There is manifest error in the account furnished; but there is no doubt on my mind, and such I believe to be
637 the fact, that the Government is credited for its proportion of the proceeds of these sales. Had I the books to refer to, the error would, I think, be easily explained.

Very respectfully,
J. COLLIER,
Late Collector Upper California.

To C. W. ROCKWELL, Esq.,
Commissioner of Customs, Washington City.

"*Schedule No.* 31."

(Copy.)

WASHINGTON CITY, Nov. 17th, 1851.

SIR:—The sum of $28,000, the amount paid by me to Thomas G. Wells, for rent of the building occupied by me for a Custom House, for the months of February, March, April, and May, 1850, forms a formidable item in the "disallowances" of
638 my disbursements as Collector for the District of Upper California.

I claim the allowance of this item for the following reasons, to wit:

First.—I was authorized to rent a suitable building, and at the usual rates, by my instructions under date of the 3d April, 1849, as you will see from the following extract (a copy of the original being on file in the Department, and to which I refer):

"As authorized by the 21st section of the Act of 2d March, 1799, you are authorized to provide at the port of San Francisco, at the public expense, such store-house accommodations for the safe keeping goods, &c., in which building the Collector's Office may be
639 held. In providing such public store-house, it is expected that you will exercise proper economy, and pay no higher rent than the rates usual at the port for similar accommodations. You will take care to advise the Department on this subject, and state the rate of rent proposed to be allowed." Such were my instructions, and that the power was ample will not be denied.

Second.—It was absolutely indispensable that a building should be procured. The Department has been so frequently advised by me of the unsuitableness of the "*Old Adobe*" for the transacting of the large and constantly-increasing business of that port, that
640 I will not here repeat what I have so often stated: but upon this subject I take occasion to refer to an extract from a letter addressed to me by Mr. G. Rodman, the Special Agent of the Department, who examined the "Adobe" under date of the 29th of May, 1850. Mr. Rodman there says: "I have, as you desired, examined the Old Adobe Custom House, and am free to acknowledge that, in my humble opinion, it is not in many respects a building suitable for the proper transaction of the present and prospective Custom House business, of this already extensive and rapidly-increasing port, and I should not consider it a secure place of
641 deposit for the large sums of money accumulating in your hands from duties, with the inadequate means now at your control for the custody and safe-keeping of the public funds." Such was the opinion of the Special Agent of the Department in relation to the "Adobe," and that opinion would be sustained by every business man in San Francisco.

The Department is in the possession of my own repeatedly-expressed opinions upon this subject, and the reasons which compelled me finally to abandon the building and rent the one for the payment of which I now ask a credit. I ask a reference to these
642 communications if it be considered necessary to consult them.

In the *third* place, the amount thus paid was *reasonable*, and in keeping with the then usual rents in that city. I was aware, however, that the Secretary would be *startled* at the rate,—seven thousand dollars per month. It sounds large, but you will recollect the voice comes from California. But in order to protect myself from all suspicions of wrong, or the want of proper economy and a disregard of the public interest, I solicited proposals for the renting of a suitable building for a Custom House. The several pro-
643 posals, or copies of them, were furnished the Department. One firm proposed to rent a *frame* building, at that time, owing to the condition of the streets, hardly accessible, and certainly not a convenient location, at the rate of $7000 per month, for the

term of ten years. The building has since been burned. Another was offered at $125,000 per annum. This has also been consumed. Another one story frame building at $45,000; and a gentleman, then just commencing the erection of a four story brick building, proposed to have it completed by the first of April, 1850, and rent it to the Government at the rate of $100,000 per annum. Another
644 building, also one story, frame, and every way unsuitable, was offered at $45,000 per annum. The instructions with which I had been furnished, issued, I think, by the Hon. Mr. Walker, required the Collector to give a preference in all cases to fire-proof buildings. In view of these various propositions, and the circumstances in each case, I rented the Iron Building under discussion, for the sum stated, $7000 per month, *for the term of one year*, subject to the approval of the Secretary. He refused his assent, and I left the build-
645 ing. Being wholly without advice from the Department as to where I was to go with the Custom House, or what I was to do,—with a very large amount of coin on hand, for the safety of which I was held responsible, I then leased the brick building which was then nearly finished, and which had been previously offered to me at $100,000 per annum. Such, however, was the condition of things in San Francisco, and such have been the changes, that I was enabled to rent it at the rate of $3000 per month, for the term of
646 one year, subject to the approval of the Secretary. This lease was at first disaffirmed, though at a subsequent date *confirmed*. Such is the history of this transaction, and it is upon this state of facts that I ask a credit for the sum "suspended." I will remark, however, that it would have been well for the Department, had the Custom House remained in this same Iron Building. That alone remains amidst the ruins of all the others. It has never yet been touched by the destructive fires that have visited that city, and which have resulted in the destruction of a very large amount of public
647 property, together with many valuable books and papers belonging to the Custom House.

It may be proper to add upon this subject, that I am charged in the account from the Department with the rent agreed upon, but still unpaid, for the Adobe Building, while the payment for the rent of the building occupied by me in its place, is disallowed. This would leave me without any building whatever for the Custom House, or compel me to provide one at my own expense, while I am charged with the rent of the Adobe; for which, it will be seen elsewhere, I never received a dollar.

Very respectfully,

J. COLLIER,
Late Collector, Upper California.

C. W. ROCKWELL, Esq.,
648 Commissioner of Customs, Washington City.

"*Schedule No.* 32."

WASHINGTON CITY, 18th November, 1851.

SIR:—As to the item charged or suspended as follows:

"Amount charged by you in 1st quarter, 1851, as money stolen from A. Randall, Deputy Collector at Monterey, $8,110 27," I have to submit the following statement:

Mr. Randall was regularly appointed Deputy Collector of that port, and took the required oath of office. Monterey is at the distance of one hundred and fifty miles from San Francisco, and the law required the appointment of a Deputy Collector at that
649 port. I had never seen the place until after my term of office expired, my official duties requiring my constant attendance at the Custom House. The moneys in question were part of the proceeds of the sales of brandy, which had been seized for a violation of the Revenue Laws, and the owners of the vessels had permission to discharge their cargo at that port, including the forfeited brandy, which could not conveniently be got at until her cargo was unladen. These brandies were sold at auction under the direction of the Deputy Collector, and the amount of net proceeds (and after deduct-
650 ing certain charges for which vouchers have been returned to the Department, leaving this balance of $8,110 27) was received by the Deputy Collector, and is returned in my account for the 1st quarter of 1851, as a suspended account of A. Randall. This money was stolen from the Custom House at Monterey, without any fault or negligence of the Deputy. It was deposited in the stone building, and I think in a safe, or the usual place of deposit. The building was forcibly broken open by robbers, and the money stolen while the Deputy was absent at supper, after dark, he being absent only about half an hour, leaving the Custom House and the
651 safe locked in the usual manner. The felons were afterwards arrested, and a trial had, at which counsel was employed by the Deputy, there then being no District Court in California. The facts of the robbery and abstraction of the money were clearly proved upon the trial, but the jury did not agree upon a verdict, and were discharged for such disagreement, and for some reason unknown to me, perhaps for the want of some proper Court having jurisdiction, the felons were not again tried.

One of the felons was afterwards seized or arrested, but
652 without legal process, by the so-called "Vigilance Committee" at San Francisco, for other felonies,—tried, found guilty, and publicly hung at San Francisco. Before the execution the felon made a full confession, giving a history of his participation in various crimes, and among them a detailed account of the robbery of the Custom House of this money at Monterey. The confession was published in the public newspapers of the day at San Francisco, and the account probably reached the Department, as the peculiar circum-

stances of this informal trial and execution attracted public attention through the country.

653 There can be no doubt of the fact of the robbery, and that no negligence or fault is attributed to the Deputy, who used such building and safeguards as the Government had provided. It is not admitted that the Collector would be personally liable for the acts of his Deputy at a distant port, not under the eye and immediate supervision of the Collector, and where the law required the appointment of a Deputy, to be only nominated by the Collector, and subject to the approval of the Secretary of the Treasury. But if this were conceded, the Collector could surely only be held responsible for his integrity and faithful discharge of his official duties. If

654 the Custom House at San Francisco, if the Old Adobe which was confessedly most insecure as a place of deposit of the public money, had been broken into by an armed body of robbers and felons, and the money stolen, as was sometime threatened, or justly apprehended, it is denied that the Collector would have been personally responsible for the loss. What responsible individual would have dared to hold the office, or what prudent man would have become his surety with such fearful responsibility? Nothing

655 more surely could be required than that the public officer should discharge his duty faithfully and vigilantly, and use all the means in his power to guard and protect the public money. There can be no doubt that all this was done by the Deputy in this instance, and it is therefore respectfully urged that this item be passed to my credit.

I wish to add upon this point, that I claim beyond this the share or proportion of these moneys properly belonging to the Collector, but this is reserved until I shall prepare and submit my account against the Treasury Department.

Very respectfully,
J. COLLIER,
Late Collector, Upper California.

To C. W. ROCKWELL, Esq.,
656 Commissioner of Customs, Washington City.

"*Schedule No.* 33."

(Copy.)

WASHINGTON CITY, November 20th, 1851.

SIR:—I have to say in reference to the sum of $163,500 with which I have charged myself, and which is suspended, that divers suits were brought against me in California in the so-called Courts, prior to the organization of the State Government, and subsequent to that period. Judgments were rendered against me, and one or more suits were pending. Transcripts of those judgments may, and no doubt will be forwarded and suits brought against me to recover the amount. These suits were for official acts, and where

657 I could not avail myself of a trial in the Courts of the United States. I will immediately prepare and submit to the Department the history of these suits, upon being advised that it is required or is deemed important. Whenever I shall be indemnified as against them and other claims which may be hereafter prosecuted, and my account against the Government shall be adjusted, I shall promptly pay over the balance in my hands, if any, to the Treasurer. I desire a speedy and equitable adjustment of my accounts, and no impediment will be thrown in the way by me, but on the contrary, I shall be ever ready and anxious to do whatever may be
658 necessary to effect that object.

Very respectfully,
J. COLLIER,
Late Collector, Upper California.

To C. W. ROCKWELL, Esq.,
Commissioner of Customs, Washington City.

"*Schedule No.* 34."

(Copy.)

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER OF CUSTOMS, November 26th, 1851.

SIR: In reply to your communication of the 20th instant, with the accompanying letters and explanations, I have to make the following remarks:

No. 1. Payments to Deputy Collector and Inspectors, at San Francisco, prior to the 12th of November, 1849, when they commenced their duties, ... $1,772 33

659 Reference having been made to the letters of the Secretary of the Treasury, dated April 3d and 10th, 1849, it appears that the former letter authorized you to appoint Deputy Collectors at the ports of delivery, enumerated in the Act of 3d March, 1849, before reaching your Collection District, whose compensation should commence with the duties of their oath of office respectively; but does not authorize any compensation to be paid to any subordinate officer of the customs, at San Francisco, prior to the commencement of their duties at that place; and expressly
660 states, that "no travelling expenses can be allowed to your deputies, or other subordinate officers, who may accompany you to California."

The letter of the 10th of April, 1849, states, that, before the Deputy Collectors, recently appointed, can enter upon their respective duties, or be allowed compensation, they must qualify by taking the oath before yourself, as Collector of the District. But as Deputy Collectors and Inspectors of San Francisco could not enter upon their respective duties before they arrived in California, the question of

compensation does not appear to be affected by said letter.

661 As the Act of 2d March, 1799, Section 2, provides, that an Inspector shall be paid, for every day he shall be actually employed in aid of the Customs, and the above officers were not so employed before they reached San Francisco, their compensation, prior to the 12th November, 1849, cannot be allowed.

No. 2. E. D. Collier, as book-keeper, from November 12th, 1849, to January 31st, 1850 (he having been paid as cashier during the same period), . . . $526 66

662 The 12th section of the Act of 26th August, 1842, provides, that "no allowance or compensation shall be made for any extra services whatever, which any clerk, or other officer, may be required to perform."

This charge for extra services is therefore disallowed.

No. 3. Compensation of A. W. Wyley, for the month of April, 1850 (no voucher), ... $120 00

I do not feel myself authorized to allow the compensation of an Inspector, without the voucher required by the 16th section of the Act of 7th May, 1822.

663 No. 4. Compensation of the Deputy Collector at Monterey, ... $2,162 80

Has been approved by the Secretary of the Treasury, and will be credited to you in your accounts.

No. 5. Liquor equivalent to officers, ... $7 35

Will be credited to you and charged to the officers.

No. 6. Rent of Custom House for the months of February, March, April, and May, 1850, . $28,000 00

The letter of the Secretary of the Treasury to you, dated 11th April, 1850 (a copy of which is sent herewith), expressly disapproved of this disbursement.

Nos. 7, 13, 15, and 16:

664 Storage, lighterage, and other expenses on account of seized merchandise, . . . $77,558 30

Amounts retained by the Collector, on account of seizures of vessels and merchandise, as his share; and amounts paid to Captain A. V. Fraser, as the share of the officers of the Revenue Cutter Lawrence, ... $58,486 83

665 As there is no provision of law under which merchandise, seized by Collectors of the Customs, can be declared forfeited, except by the Courts of the United States, the gross proceeds of all merchandise seized by Collectors and sold by them, must be held by the United States, subject to the claims of the

owners thereof, either by resort to the Courts of the United States, or the remitting power of the Secretary of the Treasury.

There is no appropriation from which expenses incurred on account of such seizures can be paid. The Acts of Congress have provided, that all such expenses shall be defrayed from the proceeds of sale of forfeited merchandise. But without a decree of condemnation and sale by authority of the Courts of the United States, there can be no proceeds from which to pay the expenses of such
666 seizures, or out of which the Collector and officers of the Revenue Cutter can claim any share or proportion.

No. 8. Payment to J. C. Hayes, ... $150 00

Has been settled by the State Department.

No. 9. Amount charged "for indemnity for suits now pending for liabilities, claims, and reclamations for goods seized and sold on account of the United States, and for commissions on moneys received and disbursed," . . $163,500 00

In relation to this item of your accounts, which has been
667 disallowed, I subjoin a copy of my letter to you of the 25th April last, which is as follows:

"Your five letters, under date of the 14th of January last, with the several accompanying accounts therein mentioned, have been received at this office and referred to the First Auditor.

"Your Abstract of contingent expenses, from the 1st to the 14th of January last, contains an amount of $168,793 55, and by reference to the items composing that sum, there is one receipted by you on the 11th January last—for indemnity, for suits now pending, for liabilities, claims, and reclamation, and for goods seized and
668 sold on account of the United States, and for commissions on moneys received and disbursed for the United States—amounting to $163,500.

"I would call your attention to the 1st section of the Act of 3d March, 1849, which is in the following words: 'That, from and after the 30th day of June, 1849, the gross amount of duties received from customs, public lands, and from all miscellaneous sources for the use of the United States, shall be paid into the Treasury of the United States, at as early a day as practicable, without any abatement or deduction on account of salary, fees, costs, charges, expenses, or claims of any description whatever.' I
669 would therefore request, that you deposit the said sum with the Treasurer of the United States at Washington." . . . "I will remark, that no account of official fees received by you has been forwarded by you to this office conformably to law."

I will now add, that in all cases where moneys have been paid into the Treasury by officers of the Customs, which, by judicial decisions, have been declared to have been illegally exacted, and in con-

sequence thereof judgments have been rendered against such officers, this Department has paid such judgments and costs, and will continue to do so.

670 No account of official emoluments has been rendered by you, as is required by law; whenever such an account is presented, the subject of your compensation will be liberally treated, under the authority of recent acts of Congress.

No. 10. In regard to the item of $22,837 59

Charged by you, as paid to Samuel Strong, for building a wharf, I would remark that, no appropriation having been made by Congress for this subject, it cannot be allowed.

No. 11. Disbursements on account of special deposits, &c., ... $405,948 80

671 Further action on this item is suspended, to await information which the present Collector of San Francisco has been requested to furnish.

No. 12. Tonnage and light money refunded, overcharged, $100 56

It appears from your accounts that $98 56 of this amount has been twice charged by you, being for the tonnage and light dues refunded on the Hamburg Brig Cecilia Louise. Having allowed the same in your accounts for the 2d quarter of 1850, it cannot be again credited, as charged in your accounts for the 3d quarter of the same year. The remaining $2 is an over payment in

672 the case of the Mexican Brig Dos Amigos.

No. 14. Amount stated in Abstract accompanying Abstract F, 2d qr., 1850, as received from Sloop Elizabeth, June 27, 1850, not credited by Collector, ... $500 00

Upon further examination, it appears that this item should have been stated as amount received from the sale of Schooner Elizabeth, June 27, 1850, $1000.

As the amount received from the sale of Schooner Elizabeth, May 1st, 1850 ($1000), has been accounted for by you, if you shall furnish proper evidence that the entry on June 27th, 1850,

673 was an error, the sum of $1000 will be credited to you in your accounts.

No. 17. Disbursements on account of unclaimed merchandise, ... $77 28

This item will be credited to you in your accounts, as receipts for unclaimed merchandise improperly credited by you to the U. S., 3d quarter of 1850.

No. 18. The item of $6,500 00

Advanced to you by the Collector of New York, was not credited

to the U. S. in your accounts, and is therefore properly charged in the statement furnished to you. If you have any special account to render I will thank you to furnish it without delay, and it will be immediately examined.

674 No. 19. Amount charged as money stolen from A. Randall, Deputy Collector, at Monterey, . $8,110 29

The accounting officers have no authority to allow this charge. Congress alone can afford you relief.

No. 20. Rent of old Custom House, ... $8,250 00

From the statements made by yourself, and one of the firm of Palmer, Cook & Co., of San Francisco, now in this city, it appears that although they hired from you, as Collector, the Old Custom House, at a rent of $9000 per annum, you have not demanded, and they have not paid any rent for the same; consequently your
675 account should be credited with the sum charged, and Palmer, Cook & Co. held responsible therefor.

No. 21. Rent of public reservations, ... $5,661 00

The charge of $5661, for moneys collected by you for rents of public reservations at San Francisco, in the statement of your accounts by the First Auditor, is undoubtedly proper, as I understand the receipt of the same is not denied, and as you held no other office or appointment in the service of the United States in California than that of Collector of the Customs, I am not able to perceive any objection to its introduction in your accounts as such.

In the adjustment of your accounts, you have not as yet
676 been charged with the value of gold received by you from Cave J. Couts, Lieut. 1st Dragoons, which you have been instructed to refund. You will be pleased to state what disposition has been made thereof.

Items No. 11 and 14, amounting to $406,948 80, having been suspended for further evidence, you are instructed to deposit the remainder of the balance, due from you to the United States, with the Treasurer of the United States at Washington, viz.: $372,479 12.

Very respectfully, your ob't servant,

C. W. ROCKWELL,
Commissioner of Customs.

677 JAMES COLLIER, Esq.
Late Collector of Upper California, Washington.

"*Schedule No. 35.*"

(Copy.)

WASHINGTON CITY, November 25th, 1851.

SIR:—I am in the receipt of your letter of this day, in which I am advised of the rejection of many important items in my account. In order to hasten the adjustment of this business, and without stopping to point out the many objections which can be urged to the dis-

allowances you have seen proper to make, I desire that all the papers in relation to my suspended account, including, of course, the letters addressed to you by me, be submitted to the Honorable the
678 Secretary of the Treasury.

I am exceedingly anxious to bring this subject to a final close, and hope, therefore, the papers will be submitted without delay.

Yours, respectfully,
JAMES COLLIER.

Hon. C. W. ROCKWELL,
Commissioner of Customs.

"*Schedule No.* 36."

(Copy.)

WASHINGTON CITY, November 27th, 1851.

SIR:—Immediately on the receipt of your letter of last evening, I addressed a note to you, requesting that the papers in relation to my disbursements rejected by you, with all my letters of explanations, might be submitted to the Honorable the Secretary of the
679 Treasury, for his opinion and review. In looking over your letter this morning, I think justice to myself seems to require that one or two items mentioned in your letter should be noticed. In the first place, you are pleased to say, that "In the adjustment of your accounts, you have not as yet been charged with the value of gold received by you from Cave J. Couts, Lt. 1st Dragoons, which you have been instructed to refund. You will be pleased to state what disposition has been made thereof." I have heretofore submitted, in my letter in answer to yours of the 17th July,
680 1850, all the facts in relation to this transaction, and have shown that so far as the collection of the gold dust referred to is concerned, I had nothing to do with it, and I am in no way responsible for the conduct of Mr. Couts. The "instructions to refund" the dust to the persons from whom it was extorted could, I think, be only properly addressed to Mr. Couts, or to the present Collector of San Francisco, with whom the money was left, and whose receipt I hold, and a copy of which is in your office.
681 Mr. Couts was requested to call for, and receive this dust, as having been most improperly left with the Cashier without my knowledge, and which I directed to be "refunded," to Mr. Couts, so soon as the fact of its deposit was made known to me. As to the sum of $5,661, charged, as you express it, "for money collected by you for rents of public reservations," you are pleased to say that it is "undoubtedly proper," and that you "understand the receipt of this money is not denied;" you seem to take for granted a fact which certainly does not appear by any letter or statement of
682 mine, that such moneys have been collected by me. At a proper time, as I have before remarked, I shall discuss this matter

fully, but I must decline blending it with my accounts as Collector, with which I insist that it has nothing to do. When the proper occasion comes, it will be seen that the whole charge is wholly without foundation.

I am respectfully yours,
JAMES COLLIER.

C. W. ROCKWELL, Esq.,
Commissioner of Customs.

"*Schedule No.* 37."

(Copy.)

WASHINGTON CITY, December 2d, 1851.

C. W. ROCKWELL, Esq.,
Commissioner of Customs.

683 I enclose herewith my account as Collector of Upper California against the United States.

In submitting this account, I desire to state that my journey across the Plains was under the direction of the Government, and that a company of Dragoons was detached on the service, under whose escort and protection myself and party, as well as other citizens of the United States, bound for California, marched. My travelling expenses were to be allowed me, as you will see by reference to the letter of the Secretary of the Treasury. In common with others, I encountered great fatigue, sufferings, and peril, as is already

684 known to the Government, for which I feel justly entitled to extra compensation, but I suppose the consideration of this subject does not properly fall within your province,—and I have here charged therefor only my expenses necessarily incurred.

In my accounts heretofore rendered, I have, as you will remember, credited the United States with the proceeds of property seized for violation of the Revenue Laws, and charged the proportions belonging by law to me. You have seen fit to disallow the items for my proportions of the sales of forfeited property, upon the ground that there had been no decree of condemnation, although in

685 some or all of these cases the property had been voluntarily surrendered, and the property sold by the express consent of the owners, of which I have furnished the evidence to the Secretary of the Treasury. Upon this subject I have to say, that if the seizures or sales were legal, I am by law entitled to a credit for my proportion, and in my accounts heretofore submitted, I have asked no more; and if these items of my former account are allowed me, I have no further claim on that score. If, however, it shall be finally decided by the Secretary of the Treasury, that these sales were not legal or justifiable, then I claim a return to me of

686 the whole amount of the proceeds of such sales. If this act is disaffirmed, I do not perceive upon what principle any portion of the money can be retained by the Treasury Department;

and if any litigation shall hereafter grow out of my accounts with the Government, I wish it to be distinctly understood, that I shall claim these items, in addition to my account herewith enclosed, and I desire you to pass upon these items accordingly, as allowed or disallowed, that I may submit this as part of my claim to the consideration of the Court and Jury, should I be driven to that extremity.

As the adjustment of this account will, doubtless, require
687 some days, and my business and the situation of my family will not allow of my longer stay here, you will please address your future communications to me at my residence, Steubenville, Ohio, where I shall wait any summons or the further pleasure of the Treasury Department.

Your obedient serv't,
JAMES COLLIER.

"*Schedule No.* 38."

(Copy.)

The United States to James Collier, late Collector, Upper California, Dr.

For Expenses incurred in going from Washington City to San Francisco:

1849.		
March and April.	Stage fare and steamboat from Washing-City to Steubenville, ...	$15 00
688	Travelling expenses, ...	10 00
	Returned to Washington City by order of the Secretary of the Treasury:	
	Expenses from Steubenville to Washington City, and back to Steubenville, .	50 00
	Expenses in Washington City, . .	25 00
April 11.	Freight bill on box public Documents sent from Washington City by Express,	5 00
	Drayage on do.	25
	Steamer Hibernia from Steubenville to Cincinnati, ...	6 00
	Steamer Fashion, from Cincinnati to Louisville, ...	3 00
	Steamer James Millinger, from Louisville to St. Louis, ...	6 00
	Freight on box pub. documents, . .	1 00
689 May	6. Bill at Planter's House, St. Louis, .	32 62
Do.	11. Steamboat Boreas, No. 2, from St. Louis to Fort Leavenworth, . .	75 02
May	15. H. Rich's bill at Fort Leavenworth, .	15 00
	17. Commissary Department, Do. . .	549 20
	4. Edwin Ellis's bill at St. Louis, . .	140 92
July	16. R. Murphy's bill at Santa Fe, .	5 00

690	July 17.	Captain Kerr, bill for fresh beef, .	$13 00	
	Do. 18.	Beck and Brent, do. St. Fe, . .	5 00	
	July 25.	A. Bartol, do. do. . .	1 50	
	Aug. 15.	Commissary Department, do. . .	19 75	
	15.	Do. do. do. . .	17 32	
	14.	A. W. Reynolds for 1 horse, . .	100 00	
	14.	R. J. W. Kennedy for 1 mule, . .	100 00	
	18.	Thomas Ravel for forage, . . .	20 00	
	19.	Jose Serapin Krum for forage, . .	16 00	
	Oct. 22.	Cave J. Couts, for 2 horses for transportation from Sandy Desert to San Diego, ...	260 00	
		(These horses and 1 mule were turned over to the Qr. Master at San Diego.)		
	Oct. 24.	Commissary Department, San Diego, .	17 40	
	24.	Do. do. do. . .	1 68	
	24.	United States (bill at River Gila), . .	3 43	
	24.	Qr. Master at San Diego, . . .	18 93	
	Nov. 8.	Brig Malek Adhel, for passage from San Diego to San Francisco, myself and servants, ...	130 00	
				$1,663 43

(Copy.)

To James Collier, late Collector of Upper California, Dr.

691 *a* For one-half the amount of brandy, &c., seized and sold at Monterey: The whole amount of nett proceeds being credited to the United States, 1st Qr. 1851:

Bark Maria, nett proceeds, . . .	$4,700 25	
Schooner Sylphyde, do.	1,062 08	
Bark Romena, do.	3,438 19	
Ship Elizabeth Starbrick, do. . .	288 25	
	$9,488 77	
½ half Collector's proportion, . . .	4,744 38	
		$4,744 38

691 *b* For one-half of the following bonds for the vessels and cargoes of the English Brigs "*Ocean*," "*Lalla*," and "*Bark Colloney*," which seizures were declared *legal* by the Hon. Mr. Meredith, late Secretary of the Treasury:

A. Hughes, bond for value of merchandise

owned by him, imported in Brig Ocean. Amount of bond, ...	$600 00	
Charles Melhado, Carsie, Schwern & E. D. Hatly, bond for the value of merchandise in same vessel, ...	2,000 00	
James Cunningham, S. Maynard, Wm. Nible, Charles Minturn, Edward Minturn, and J. S. Ruckle, bond for coal, &c., same vessel,	10,000 00	
691 *c*. R. C. Janion and J. C. Wooley, bond for the value of Brig Lalla, . .	2,000 00	
William Sim and A. M. Vanostrand, bond for the value of the cargo imported in the English Bark Colloney, . . .	10,000 00	
	$24,600 00	
½ half Collector's proportion, . . .	12,300 00	12,300 00
Commission of three per cent. on the gross amount of duties received from the 12th November, 1849,		
691 *d* to January 4th, 1851, Whole amount $1,980,014 47 at 3 per ct. .		59,400 43
		$76,444 81

TREASURY DEPARTMENT,
REGISTER'S OFFICE, April 27, 1855.

692 Pursuant to the act of March 3d, 1797, entitled "An act to provide more effectually for the settlement of accounts between the United States and Receivers of Public Moneys," I, F. Bigger, Register of the Treasury Department, do hereby certify, that the annexed is a true copy of an original account rendered by James Collier, late Collector, Upper California, now on file in this office.

F. BIGGER,
Register.

Be it remembered, that F. Bigger, Esq., who certified the annexed transcript, is now, and was at the time of doing so, Register
693 of the Treasury of the United States, and that full faith and credit are due to his official attestations.

In testimony whereof, I, James Guthrie, Secretary of the Treasury of the United States, have hereunto subscribed
[L. S.] my name, and caused to be affixed the seal of this Department, at the City of Washington, this twenty-seventh day of April, in the year of our Lord 1855.

JAMES GUTHRIE,
Secretary of the Treasury.

"*Schedule No.* 39."

(Copy.)

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER OF CUSTOMS, Dec. 29, 1851.

SIR: Your accounts of the Customs have been adjusted
694 at the Treasury, and a balance of $750,933 80 has been found to be due from you to the United States.

Balance due the United States, per last adjustment, .		$789,925 35
Deduct compensation of Deputy Collector at Monterey, heretofore disallowed, .	$2,162 80	
Liquor equivalent to Officers of Revenue Boat Argus, disallowed, . . .	7 35	
Rent of Custom House, ditto, . .	28,000 00	
Rent of Old Custom House to Palmer, Cook & Co., ...	8,250 00	
Travelling expenses from Washington to San Francisco, ...	494 12	
Unclaimed merchandise, improper-
695 ly credited by you, . . .	77 28	
		38,991 55
		$750,933 80

The accounts enclosed in your letter of the 2d instant, were referred to the First Auditor on the 3d, and have been returned disallowed, and, upon an examination of the items, I do not perceive that they can be allowed.

The charge of commissions upon your collections will be acted upon when your account of official emoluments, which has not been rendered, is received. I have repeatedly brought this neglect to your notice, and again remind you of it.

696 You are hereby instructed to deposit the sum of $343,985 to the credit of the Treasurer of the United States; the sum of $406,948 80 having been suspended for further information from California.

Very respectfully, your ob't servant,
C. W. ROCKWELL,
Commissioner of Customs.

JAMES COLLIER, Esq.,
Late Collector of California, Steubenville, Ohio.

"*Schedule No.* 40."

(Copy.)

United States Circuit Court, for the Southern District of New York.

THE UNITED STATES
v.
JAMES COLLIER.

SAME,
v.
JOHN A. COLLIER, DANIEL L. COLLIER, and ARNOLD H. DOHRMAN.

697 Hon. F. B. Streeter, Solicitor of the Treasury.

Sir: Take notice that the deposition of Hon. John B. Weller will be taken in the above causes, before me, this afternoon, at my office, on 6th street, in the City of Washington, on Monday, the 3d of April, 1854, at 5 o'clock, P. M., at which time and place you are hereby notified to attend and cross-examine said witness, if you shall think fit.

W. B. WEBB,
U. S. Commissioner.

Service acknowledged this 3d April, 1854.

F. B. STREETER,
Solicitor.

In the Circuit Court of the United States, Southern District of New York.

698 THE UNITED STATES
v.
JAMES COLLIER.

THE UNITED STATES
v.
JOHN A. COLLIER, DANIEL L. COLLIER, and ARNOLD K. DOHRMAN.

District of Columbia, County of Washington, *ss.*

Be it remembered, that, on this third day of April, 1854, personally appeared before me, William B. Webb, a United States Commissioner, duly appointed under and by virtue of certain acts of Congress, enacted "for the more convenient taking of affidavits and bail in civil causes depending in the Courts of the United States," at my office, in the City of Washington, in the District of Co-
699 lumbia, the Honorable John B. Weller, a witness on behalf of the defendants in each of the above-entitled causes, a notification from me, before whom the testimony or deposition of the said John B. Weller is to be taken, to the Solicitor of the Treasury to be present at the taking thereof, and to put interrogatories, if he thinks fit, on the part of the United States, being first made out and previously served upon the said Solicitor of the Treasury, in pursuance of the provisions of the acts of Congress on that subject;

And the Honorable John J. Taylor, appearing also before
700 me in behalf of the said defendants, at such examination; and the Honorable F. B. Streeter, Solicitor of the Treasury,

and the Honorable P. B. Key, District Attorney for the District of Columbia, on behalf of the United States: And the said John B. Weller being first, by me, duly sworn to testify the truth, the whole truth, and nothing but the truth, in the matters in controversy in the above-entitled suits, I did thereupon proceed carefully to examine the said John B. Weller, who did thereupon depose
701 and testify, in answer to the several interrogatories put to him on the part of the said defendants, as follows:

And now, on this 3d day of April, at my office in said City of Washington, at 5 o'clock, P. M., came the said John B. Weller, and the interrogatories hereto annexed having been propounded to him, did submit the following several replies thereto, which was by him in my presence reduced to writing:

Question—First. Please state your name, age, profession, and present place of residence; and whether you are, or not, now a member of the Senate of the United States from the State of California, and attending the Senate in that capacity; and
702 when were you first appointed or elected to the office?

Second. Where did you reside in or about the month of December, 1850; and were you not then residing at Monterey, in the State of California, or how near to that point, or if you were there casually, or happened accidentally to be there, answer, what led you, or how did you happen to be there?

Third. Are or were you then acquainted with A. Randall, Deputy Collector of Monterey? How long had he then held the said office of Deputy Collector? Was the building, where the said Deputy kept his office at Monterey, a building belonging to the
703 United States, or what building was it; and was it devoted to that object, or was it or not occupied for the purpose of a Custom House of the United States; was it of wood, stone, or what materials built? Were the public moneys belonging to the United States, or collected at, or appertaining to the said Custom House or office, usually kept and deposited in that building, or where in particular? Was the building, in your judgment or opinion, a safe place of deposit, or for keeping of the public moneys received or to be received at the Monterey office, or by the Deputy Collector at that place? State particularly the character of the building, its
704 means or provisions for safety or security, with your judgment and belief as to its probable safety, and the reason of your belief.

Fourth. Do you know anything of the fact of the robbery of the said Deputy Collector's Office, at Monterey, of any public moneys, or of the moneys collected or received by him, as such Deputy Collector, belonging to the United States? And if so, state all the facts, in any manner touching or relating to the said robbery, in detail, so far as they came to your knowledge, and of all the attending circumstances; giving, as near as may be, the names of all the par-

ties, the amount stolen, the time of day when the robbery was
705 committed, where the Deputy Collector boarded, and whether, and for what purpose he was absent; the amount stolen, and every material fact tending to prove the actual loss of the money, and all that you know, or which in any way came to your knowledge on that point. Answer fully and particularly everything material to show the fact of such robbery, and what corroborating circumstances came to your own knowledge.

Fifth. Were there any persons arrested, and by whom, and upon whose application, and upon whose oath, or what evidence, as the suspected robbers, and who issued the warrant for their arrest, and were these suspected persons arrested, and who were they,
706 giving their names, &c., their general character, and wherefore they were suspected or arrested, and brought before the said magistrate or officer? Were you, or not, employed as counsel for the United States on that occasion, or for or by the said Deputy Collector; and did you, or not, appear and act as such counsel against the said parties arrested, or in what capacity?

Sixth. Were any moneys, and what amount, found in possession of the said arrested parties, or found secreted at any and what places, where those suspected persons were living, or near their accustomed haunts, or where they were staying or frequenting, or where, in particular, was that money found? State particu-
707 larly, according to your recollection, the amount of money found and taken, and whether it was all in specie, or what amount in gold, and what amount in silver. And was it found in bags, or how otherwise? State all the particulars upon the matters inquired about in this interrogatory, as if more especially interrogated.

Seventh. Was the said A. Randall examined as a witness upon that occasion, and did he or not, testify to and prove the fact of such robbery, and to what amount, and what was the substance of the testimony given by him on the question of the loss, and the
708 circumstances relating to the loss, and what was the amount of the loss, as thus proved by him? Were there any other witnesses or testimony showing the robbery or relating thereto, or any and what testimony, or what facts are there of your own knowledge in corroboration thereof? State the substance of the proof or testimony given upon that occasion to show the robbery or loss of the money, and was there any doubt or question on the trial or at the time as to the fact of the robbery?

Eighth. What was the result of the trial of the said arrested parties? After the trial, did you or not, advise the said
709 Deputy Collector to compromise with said suspected robbers, and what were the reasons of such your advice? Was such compromise made and when, and by whom, and upon what conditions? Was not upon the said compromise a portion of the money found

upon the accused parties or thus about their premises, refunded or returned to the said Deputy Collector, and what was the amount? Was not the sum of $8110 29 or other and what sum totally lost to the Government or to the United States, or upon whomsoever the loss was properly to fall as compared with the amount proved
710 to be stolen, and the amount recovered, or what was the amount of the first loss; state particularly all the facts you know on this point?

Ninth. Were there any and what persons who were supposed accomplices of the parties accused, who were called as witnesses for them; who were they? Do you know, or what reason have you for believing where the said accused parties, their accomplices, or witnesses went after the said compromise, or after the parties were discharged, or do you know of your own knowledge or upon information, what became of them? Were not some, and which of the said accused parties, their accomplices or witnesses, afterwards hung
711 at San Francisco, or other and what place, and when was it, and for what offence, and by what tribunal, or under what authority? Did not the said persons, or which of them, at and immediately before they or either of them were executed, confess the said robbery of the Deputy Collector's office at Monterey, or what confession did they make, or what relation did they give, touching their own or their confederates' participation in that robbery? State all the particulars, with your knowledge, information, and belief, and the source from which you derived your information, or the
712 reason of such belief on that subject?

Lastly. Do you know any other matter, or thing, or have you any further information and what, tending to establish the fact of such robbery, the account of the loss, and if so, state the same fully?

In answer to the interrogatories propounded I have to say, that I am a lawyer by profession, and at present one of the Senators in Congress from the State of California. That I was elected in January, 1852, and am here now discharging the duties of that office. I went to California as Commissioner, to draw and mark the boundary line between the United States and Mexico, under the treaty
713 of peace; had my head quarters at San Diego, from the 1st of June until I left the commission in February, 1850. Since which time I have resided when at home in San Francisco. That I first saw A. Randall at San Diego in October or November, 1849, soon after which, say two months, I understood he was on duty as Deputy Collector at Monterey. In December, 1850, he informed me that the Custom House at Monterey had been robbed, and some $14,000 in coin, silver, and gold stolen. That several persons had been arrested, and were then in custody. That $12,000
714 had been found in the possession of defendants, but that this did not correspond with the description of the money stolen,

although this too was in gold and silver. He employed me professionally to aid in recovering the money. Civil suits were commenced, and an injunction obtained, tying up the money in the hands of the consulting officer, Justice Richardson. When the defendants were put on trial for the burglary, I appeared as assistant counsel to the Government. The defendants pleaded severally, and we selected the
715 one against whom we had the strongest proof. The burglary was clearly established, but neither Randall nor any other witness could fix the crime on defendant or identify the money. One small coin and a gold specimen Randall thought was his. The money found was not in handkerchiefs or cloths belonging to the Collector. No one had seen the defendant at or near the premises. Evidence was produced that one of the parties had drawn some eight or nine thousand dollars from a bank in San Francisco a few days anterior to the robbery. Although I believed the parties guilty, I did not hesitate to say to the District Attorney that upon the evidence
716 a conviction was out of the question, but I would, as the only hope to secure a portion of the money, go to the jury and try and divide them so as to prevent a verdict and force a confession. I relied mainly upon the fact, that the defendants were all suspicious-looking persons, having no visible employment, and emigrated from Sydney. As there was a great deal of prejudice existing against those who had come from the old penal colonies of England, as I had hoped, the jury disagreed; they were understood to stand nine for acquittal, and three for conviction.

Upon these facts, the District Attorney, with my assent, en-
717 tered a nolle prosequi. $5000 I think, was paid to Randall, and the balance, after paying costs, &c., was given to defendants. The civil suits were dismissed, being compromised upon these terms. Randall was not able to state the precise amount stolen, although I think he placed it at $14,000, $8,000 of which he swore was Government money, having been collected in his official character. The money was kept in an iron chest, which bore on it the marks of having been forced with some iron instrument. The robbery was committed between sundown and dark, and he had been absent less than
718 an hour from the office. I cannot say whether the building was an adobe or store, but I think it was a store, and belonged to the Government. It had been used as a Custom House by the Mexican authorities, and was one of the safest and strongest buildings in that city. One of the witnesses for defence, on the trial for burglary, was, as I was informed afterwards, hung by order of the "Vigilance Committee" of San Francisco, a tribunal organized to correct, as it was said, the loose and irregular administration of the criminal laws of the State. The name of this criminal was
719 Stuart, although he had testified under a different name at Monterey. A paper purporting to be his confession was published in the newspapers of the day; in this paper the burglary

and robbery of the Custom House was confessed, although he affirmed the amount taken was less than that stated by the witness Randall. Another witness for the defence was afterwards hung by the same tribunal, in my presence; he made no confession.

JOHN B. WELLER.

Taken, subscribed, and sworn to before me, this 3d day of April, A. D. 1854.

W. B. WEBB,
U. S. Commissioner.

720 The counsel for the plaintiff object to the foregoing evidence as incompetent, and especially to so much thereof as is not stated by the witness to be within his own knowledge.

The Hon. John B. Weller being cross-examined by the counsel for the United States, the Hon. F. B. Streeter, and the Hon. P. B. Key, in answer to interrogatories, says:

1st Cross-question. What did Randall do with the $5000 which was received from the alleged robbers?

Answer. I do not know, unless he paid my fee out of it; though I do not know that he paid my fee out of that fund.

2d Cross-question. Do you know whether the money recovered by Randall belonged to the Government or himself?

721 Answer. I do not. I made the compromise as the counsel for Randall, who was Deputy Collector at the time of my employment.

JOHN B. WELLER.

Taken, subscribed, and sworn to before me, this 3d day of April, 1854.

W. B WEBB,
U. S. Commissioner.

And the said deposition having been by the said witness, in my presence, reduced to writing, and having been by him carefully read over, was by him in my presence signed. And I do hereby further testify, that the said depositions were by me carefully sealed up and deposited in the Post Office at Washington City, addressed to the Circuit Court of the United States for the Southern District

722 of New York, at the City of New York, and that I am not counsel for either of the parties to the said suits.

In testimony whereof, I have hereunto set my hand, and affixed my official seal, this 3d day of April, 1854.

[L. S.] W. B. WEBB,
U. S. Commissioner.

District of Columbia, County of Washington, *ss.*

I, John A. Smith, Clerk of the Circuit Court of the District of Columbia, do hereby certify, that William B. Webb, whose name is

appended to the foregoing certificate, is, and was at the time of certifying the same, a United States Commissioner, duly appointed and commissioned under the Acts of Congress, in such case made and provided, for the more convenient taking of affidavits and
723 bail in civil causes depending in the Courts of the United States, and that full credit is due to his acts as such.

In testimony whereof, I have hereunto set my hand, and affixed
[L. S.] the seal of the said Court, this 4th day of April, 1854.

JOHN A. SMITH,
Clerk.

"*Schedule No.* 41."

(Copy.)

OFFICE OF THE SOLICITOR OF THE TREASURY,
Feb. 21st, 1853.

Col. JAMES COLLIER,

Sir:—My attention has been called to a suspended item in your accounts, as late Collector of the Port of San Francisco, with
724 the Treasury Department, amounting to $8110 29, being money stolen from the office of the Deputy Collector at Monterey. I understand that no question is made, but that the money was actually stolen as stated in your accounts, without any fault on the part of the Deputy, and of course without any fault of your own. The Accounting Officers, however, I am told, are of opinion that they have no power to allow the item, and that your appeal must be to Congress. Under these circumstances, I have no hesitation in saying that Congress ought to pass an act for your relief in respect to this item.

725 I am, Sir, respectfully yours,

GEO. F. COMSTOCK,
Solicitor.

(Copy.)

Sir:—I agreed with John A. Collier, Esq., that the writtten copy of letter might be admitted in evidence, in the suit of the United States v. Collier et al., provided the original would be evidence.

F. B. STREETER,
Solicitor.

September 22d, 1853.

CHARLES O'CONOR, Esq.,
United States District Attorney,
Southern District of New York.

"*Schedule No.* 42."

(Copy.)

TREASURY DEPARTMENT, Office of Commissioner of Customs,
February 21st, 1853.

Sir:—The following is an extract from a letter from this office

726 to you, dated 21st November, 1851, upon the subject of the disallowances in your accounts, viz.:

"No. 19. Amount charged as money stolen from A. Randall, Deputy Collector at Monterey, $8110 29."

The Accounting Officers have no authority to allow this charge. Congress alone can afford relief.

Very respectfully, your obedient servant,

J. N. BARKER,
Acting Commissioner of Customs.

JAMES COLLIER, Esq.,
Late Collector of Upper California.

"*Schedule No.* 43."

(Copy.)

"In Executive Session. Senate of the United States.

September 28th, 1850.

727 The following message was received from the President of the United States by Mr. Campbell:

WASHINGTON, 28th September, 1850.

To the Senate of the United States:

I nominate James Collier to be Collector of the Customs, for the District of San Francisco, in the State of California, the District having been changed from Upper California to San Francisco.

MILLARD FILLMORE.

The message was read.

Ordered, that said nomination be referred to Committee on Commerce.

Mr. Hamlin, from the Committee on Commerce, to whom was this day referred the nomination of James Collier, reported,

Whereupon,

The Senate, by unanimous consent, proceeded to consider the said

728 nomination, and

Resolved, That the Senate do not advise and consent to the appointment of James Collier, to be Collector of Customs for the District of San Francisco in the State of California."

I, Asbury Dickens, Secretary of the Senate of the United States, do hereby certify, that the foregoing are true extracts from the Executive Journal of the Senate (the injunction of secrecy having been removed from the same by an order of the Senate of this date).

These extracts are made and certified at the request of the Honorable Hamilton Fish, and under authority of the Act, approved

729 8th August, 1846, entitled "An Act making copies of papers certified by the Secretary of the Senate and Clerk of the House of Representatives, legal evidence."

Given under my hand at Washington, this 13th day of March, 1854.

ASBURY DICKENS,
Secretary of the Senate.

"*Schedule No.* 44."

(Copy.)

Know all men by these presents, that we, Thomas Butler King, George Law, and Marshall O. Roberts, are held and firmly bound unto the United States of America, in the full and just sum of fifty thousand dollars, money of the United States; to which pay-
730 ment, well and truly to be made, we bind ourselves, jointly and severally, our joint and several heirs, executors, and administrators, firmly by these presents. Sealed with our seals, and dated this twenty-first day of October, in the year one thousand eight hundred and fifty.

The condition of the foregoing obligation is such, that whereas the President of the United States hath, pursuant to law, appointed the said Thomas Butler King. Collector of the Customs for the District of San Francisco, in the State of California:

Now, therefore, if the said Thomas Butler King has truly
731 and faithfully executed and discharged, and shall continue truly and faithfully to execute and discharge, all the duties of the said office, according to law, then the above obligation to be void and of none effect, otherwise it shall abide and remain in full force and virtue.

Sealed and delivered	T. BUTLER KING,	[L. S.]
in the presence of	GEORGE LAW,	[L. S.]
GEO. E. FAIRCHILD,	MARSHALL O. ROBERTS.	[L. S.]
T. SPENCER KIRBY.		

I, Thomas Butler King, having been appointed to the Office of Collector of the Customs for the District of San Francisco, in the State of California, do solemnly, sincerely, and truly swear,
732 that I will diligently and faithfully execute the duties of the said Office of Collector, and will use the best of my endeavors to prevent and detect frauds in relation to the duties imposed by the laws of the United States. I further swear that I will support the Consitution of the United States.

T. BUTLER KING,
Collector.

Sworn to and subscribed this thirty-first day of October, 1850, before me. Witness my hand and seal,

SAML. R. BETTS,
U. S. Judge for the Southern District of New York.

United States of America for their District of New York, *ss.:*

733 George Law and Marshall O. Roberts being duly sworn, depose and say, and each for himself saith, that they are worth the sum of fifty thousand dollars, and able to pay the penalty of the said bond.

GEORGE LAW,
MARSHALL O. ROBERTS.

Subscribed and sworn to this
31st day of October, 1850,
before me,

SAML. R. BETTS,
U. S. Judge.

I hereby certify that George Law and Marshall O. Roberts, the sureties within named, are sufficient for the penalty of the within bond.

New York, October 31st, 1850.

SAML. R. BETTS,
U. S. Judge, &c.

(Indorsed.)

Thomas Butler King, Collector, San Francisco, California.
Bond dated 31st October, 1850.
Oath do. do. do.
$50,000

COMPTROLLER'S OFFICE, Nov. 7th, 1850.

Approved.

E. C. SEAMAN,
Acting Comptroller.

"*Schedule No.* 45."

(Copy.)

734 United States of America, State of California, District of San Francisco.

I, Thomas Butler King, having been appointed Collector of the Customs for said district, solemnly, sincerely, and truly swear, that I will diligently and faithfully execute the duties of said office of Collector, and use the best of my endeavors to prevent and detect frauds in relation to the duties imposed by the laws of the United States. I further swear that I will support the Constitution of the United States.

T. BUTLER KING.

Sworn to and subscribed before me, this eighth day of Jan-
735 uary, in the year one thousand eight hundred and fifty-one.

LEVI PARSONS,
Judge of the 4th District Court.

"*Schedule No.* 46."

(Copy.)

TREASURY DEPARTMENT,
COMPTROLLER'S OFFICE, Nov. 1, 1850.

T. Butler King, Esq., New York.

Sir: Your official bond having been received and approved, your commission as Collector is herewith transmitted.

Inasmuch as there is a question about the legality of your oath of office indorsed thereon, taken before the Judge of the District Court for the Southern District of New York, you are hereby required, before entering upon the duties of your office, to take another
736 oath of office within the collection district, before some judge or magistrate authorized to administer oaths therein, and have the official character and signature of such officer duly certified by the clerk of a court of record of the proper county, under his seal of office, in accordance with the form of oath and certificate, and the instructions at the bottom of the blank bond herein enclosed, and you will please to transmit the same, so certified, forthwith to this office; and, on so doing, James Collier, Esq., your predecessor in office, will deliver to you, on application, all the public
737 money and other public property, books, papers, &c., as well as instructions, relative to the duties of the office, with which he has been furnished by this Department; for all which you will give him duplicate receipts, specifying every article.

E. C. SEAMAN,
Acting Comptroller.

"*Schedule No.* 47."

(Copy.)

TREASURY DEPARTMENT,
COMPTROLLER'S OFFICE, Nov. 1, 1850.

Sir: T. Butler King having been appointed to the office of Collector of the Customs for the District of San Francisco, in the State of California, and having duly qualified, you will deliver to him, on application, all the public money and other public property in
738 your possession, together with the forms, books of entry, and instructions, relating to the duties of the office, with which you, as Collector, have been furnished by this Department; for all which you will take duplicate receipts, specifying every article, and forward one of them to this office.

Very respectfully, your obedient servant,

E. C. SEAMAN,
Acting Comptroller.

JAMES COLLIER, Esq.,
San Francisco, California.

"*Schedule No.* 48."

(Copy.)

WASHINGTON CITY, Nov. 25, 1851.

Sir: The Commissioner of Customs having rejected many important items in my account, as Collector of the revenue for
739 Upper California, amounting in the aggregate to a large sum, I respectfully request that all the papers having relation to the "suspended account," furnished by the Commissioner, under date of September 25, 1851, together with the several letters containing a full explanation of the several items in that account, addressed to the Commissioner by me, may be submitted to you for your opinion. I am exceedingly anxious to bring my affairs with the Department to a speedy and equitable close, at the earliest possible period. I am detained in this city solely on this account, and at very great inconvenience and expense.

740 Very respectfully,

J. COLLIER,
Late Collector, Upper California.

Hon. T. CORWIN,
Secretary of the Treasury.

"*Schedule No.* 49."

WASHINGTON CITY (Saturday Evening),
29th November, 1851.

HON. THOMAS CORWIN.

Dear Sir: I have, as you know, been anxiously waiting here for the last two weeks, hoping to see the final settlement of my brother's accounts, before leaving the City.

I am one of the sureties upon his three official bonds, and, of course, have a deep personal interest in this matter, independent of the strong interest I should take on my brother's account.
741 We both wish to settle with the Government upon just and equitable principles, "asking for nothing but what is right," even should we, under any circumstances, be induced to "submit to some things that are wrong." I cannot but think, that the Commissioner of Customs is rather rigid and technical, especially under the broad discretion that seemed to be given to the late Collector by the general letter of instructions from the Secretary of the Treasury of 3d April, 1849. I differ from the Commissioner in some of the constructions he has given to the law, and in many of his
742 conclusions. I am, to be sure, a party in interest; but, perhaps, it might be said, on the other side, that the Commissioner looks sometimes with a single eye to the interest of the Government. I hope, in this matter, not to be driven to technicalities; but it may be proper that I should say, there are difficulties and objections of a grave character which would seem to strike at the

very foundation of any liability of principal or sureties. I have purposely withheld the suggestion of them, under the hope that the account would finally be settled upon just and equitable prin-
743 ciples. But as the whole matter is now in your hands, upon appeal from the decision of the Commissioner of Customs, I have concluded to submit these questions to you for your consideration, that it may be seen that, if the final balance against my brother is to be swelled up to such an alarming and ruinous amount, by rejecting items upon technical grounds that must be admitted to be perfectly just and equitable, the advantages are not altogether on the side of the Government. I, therefore, take the liberty of enclosing, for your consideration, some of the important questions which might arise in this case. Perhaps you will deem them
744 of sufficient importance to submit to the Attorney-General for his opinion; but of this you will, of course, judge for yourself.

Hoping that a settlement upon just and equitable principles may become, under the discussion and decision of these questions, not material to me,

I remain, very sincerely,
Your friend and obedient servant,
JOHN A. COLLIER.

"*Schedule No.* 50."

(Copy.)

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER OF CUSTOMS, March 7th, 1853.

SIR:—Your accounts of the Customs have been readjusted at the Treasury, and a balance of $216,712 43 has been stated to
745 be due from you to the United States, which is explained by the enclosed statement, and which you are instructed to pay to the Assistant Treasurer of the United States at New York.

Very respectfully,
Your obedient servant,
J. N. BARKER,
Acting Commissioner of Customs.

JAMES COLLIER, Esq.,
Late Collector of Upper California,
"Metropolitan Hotel," New York.

"*Schedule No.* 51."

(Copy.)

CUSTOM HOUSE,
SAN FRANCISCO, February 25th, 1850.

SIR:—I have the honor to enclose herewith "briefs" in several cases of seizures made in this port by order of the Collector,
746 to which I beg leave to call your special attention.

I have made a statement of facts in relation to each, in order that the Honorable Secretary of the Treasury, and yourself,

may decide upon the laws and the facts, whether these seizures were rightfully made, and whether or not these vessels, together with their cargoes, have become forfeited. The whole question in each case, by special agreement, signed by the several parties in interest, and, at their instance, is submitted for the adjudication of the Secretary and yourself, and your decision to be final, and no
747 other or further litigation is to be prosecuted by either party.

You are aware that the Act of Congress, "extending the Revenue laws over California," has given to the Supreme Court of Oregon, or to the District Court of the United States, in Louisiana, jurisdiction in these and like cases. But the expense attending the prosecution, in either of these Courts, would be enormous, and the delay so embarrassing, that the parties have greatly preferred submitting the cases as above stated.

I need not tell you, that my position is not only peculiar, but of great responsibility. I am without the aid of a legal adviser,
748 and have to rely upon such laws as I brought with me.

I found the affairs of this Department in great confusion, and have been compelled to use strict and rigid measures to bring order out of this confusion. If I have erred, in any one instance, in relation to these seizures, it has not been without using all the means within my power to arrive at correct conclusions. Many changes may have taken place in our commercial relations with foreign countries, of which I have not been advised, owing to my remote position and the constant derangement of the mails. I
749 trust, however, to be sustained wherever the law is with me, without regard to the peculiar state of things here. If the law is made to yield to these circumstances, I shall never know what to do. I am aware, that appeals will be made to the Department arising out of the hardship of the case; but our rights will suffer if such appeals should avail. My great desire is to know, whether the law is as I understand it; and I trust the cases will all be decided upon that question, and that only.

You will see from the affidavit of the Captain of the British
750 Ship "Ocean," that he knew what the law was. He swears that he did not intend to come into port until after the first of January, when he might have rightfully brought the cargo. But the plea is too shallow. The truth is, that in all these cases, the law has been wilfully violated. In relation, for instance, to the article of brandy in cases, they had timely warning of the consequences. I published a notice in the newspapers, and that had been told by my predecessor that the law would be enforced on my arrival. I trust that no such plea will avail them.

Very respectfully,

751 Your obedient servant,

J. COLLIER,
Collector.

Hon. The Solicitor of the Treasury.

"*Schedule No.* 52."

Abstract of fines, penalties, and forfeitures, received by James Collier, Collector and Disbursing Agent of the Treasury, and credited the United States during the quarter ending September 30th, 1850.

July 6th, 1850. Received by sale of Schooner Four Sisters, for violation of the Revenue Laws, $62 50.

Custom House, San Francisco, September 30th, 1850.

J. COLLIER,
Collector and Disbursing Agent.

TREASURY DEPARTMENT, REGISTER'S OFFICE,
April 27th, 1855.

752 Pursuant to the Act of March 3d, 1797, entitled "An Act to provide more effectually for the settlement of accounts between the United States and receivers of public moneys," I, F. Bigger, Register of the Treasury Department, do hereby certify, that the annexed is a true copy of an original "abstract of fines, penalties, and forfeitures received by James Collier, Collector and Disbursing Agent of the Treasury, and credited the United States during the quarter ending September 30th, 1850," rendered by said Collector under date of September 30th, 1850, now on file in this office.

F. BIGGER,
Register.

753. Be it remembered, that F. Bigger, Esq., who certified the annexed transcript, is now, and was at the time of doing so, Register of the Treasury of the United States, and that full faith and credit are due to his official attestations.

In testimony whereof, I, James Guthrie, Secretary of the Treasury of the United States, have hereunto subscribed my name, and caused to be affixed the seal of this Department, at the City of Washington, this twenty-seventh day of April, in the year of our Lord 1855.

[L. S.]

JAMES GUTHRIE,
Secretary of the Treasury.

"*Schedule No.* 53."

Abstract of forfeitures received, and account of the disposition thereof, by James Collier, Collector of the Customs for the
754 District of Upper California, from November 12th, 1849, to June 30th, 1850, inclusive.

1849.
Decr. 13. To storage on Ship Zuid Pool, . . . B. $95 40

	Decr. 13. To drayage, labor, and wharfage, . .	B.	$18 00		
	Decr. 13. To storage of 7 packages, $3, . . .	B.	21 00		
	Decr. 13. To advertising, $10. Commission, 10 per ct. $168 61, . . .	B.	178 61		
755	Decr. 13. To United States, .	B.	1,373 16		
					$1,686 17
	Decr. 13. To advertising, $8. Commission, 10 per ct. 54 37, . . .	C.	62 37		
	Decr. 13. To United States, .	C.	481 38		
					543 75
	Decr. 13. To drayage, $2. Storage, $2. Advertising, $3. Commission, 10 per ct. 2 40 . .	D.	9 40		
	Decr. 13. To United States, . .	D.	14 60		
					24 00
	Decr. 13. To drayage, storage, and advertising, $5. Commission, 10 per ct. 3 80,	E.	8 80		
	Decr. 13. To United States, . .	E.	29 20		
					38 00
	1850.				
	Feby. 11. To United States, . .	F.	200 00		
					200 00
	Feby. 13. To advertising, $36 50. Commission, 10 per ct. 187 50 . . .	G.	224 00		
	Feby. 13. To United States, including share of officers, .	G.	1,651 00		
					1,875 00
	March 2. To advertising, $25. Commission 10 per ct. $61,	H.	86 00		
756	March 2. To United States, including share of officers, .	H.	524 00		610 00
	March 2. To United States, .	I.	200 00		200 00
	March 5. To United States, .	J.	100 00		
					100 00
	March 6. To advertising, $8. Commission, 5 per ct. 82 50,	K.	90 50		
	March 6. To United States, including share of officers, . . .	K.	1,559 50		
					1,650 00

March 9.	To United States,	L.	$100 00	
				$100 00
March 9.	To United States,	M.	100 00	
				100 00
March 18.	To United States,	N.	200 00	
				200 00
757 March 8.	To United States, including share of officers,	O.	700 00	
				700 00
Omitted 3. in order.	To United States, including share of officers,	P.	1,000 00	
				1,000 00
March 25.	To United States, including share of officers,	Q.	1,200 00	
				1,200 00
May 1.	To United States, including share of officers,	R.	1,000 00	
				1,000 00
May 11.	To United States, including share of officers,	S.	500 00	
				500 00
May 17.	To United States, including share of officers,	T.	400 00	
				400 00
May 20.	To advertising, $42. Commission, 10 per ct. $70,	W.	112 00	
758 May 20.	To United States, including share of officers,	W.	588 00	
				700 00
June 4.	To United States, including share of officers,	V.	100 00	
				100 00
June 17.	To United States, including share of officers,	U.	225 00	
				225 00
June 27.	To United States, including share of officers,	X.	1,000 00	
				1,000 00

June 27.	To United States, including share of officers, . . .	Y.	$500 00	
				$500 00
June 27.	To United States, including share of officers, . . .	Z.	800 00	
				800 00
June 27.	To United States, including share of officers, . . .	A	150 00	
				150 00
June 27.	To A. V. Frazer, for care of brig, . .	A	35 00	
June 27.	Paid I. E. Wainwright,			
759	for seizure, . .	A	50 00	
June 27.	To advertising, $24 25. Commission, 5 per ct. 115 00, . . .	A	139 25	
June 27.	To United States, including share of officers, . . .	A	2,075 75	
				2,300 00
June 27.	To advertising, $8. Commission, 5 per ct. $45,	O	53 00	
June 27.	To United States, including share of officers, . . .	O	847 00	
				900 00
June 27.	On account of fine of Bark . Collooney, on 30th November, 1849,	A		500 00
				$19,301 90

1849.

760	Novr. 30. By amount received from Bark Collooney, for violation of Revenue Laws, ...	A.	500 00
	Decr. 13. By proceeds of sales of merchandise from Schooner Patapsco, as the property of Joseph Faburquer, ...	B.	1,686 17
	Decr. 13. By sales at auction, by P. M. Scorffey, of seven casks of brandy, seized from French Ship La Meuse,	C.	543 75
	Decr. 13. By sale at auction, by P. M. Scorf-		

	fey, of 1 case of muskets, seized from French Ship La Meuse, .	D.	$24 00
761 Decr. 13.	By sale at auction, by P. M. Scorffey, of one case of mdse. shipped by G. Dittinth, on French Ship		
1850.	La Meuse, ...	E.	38 00
Feby. 11.	By amount received from Capt. J. W. Smith, for smuggling, .	F.	200 00
Feby. 13.	By amount received from sale of Brig Klinket, seized and sold for violation of Revenue Laws, .	G.	1,875 00
March 2.	By amount received from sale of Brig Felix, seized and sold for violation of Revenue laws, . .	H.	610 00
762 March 2.	By amount received from sale of Launch Charlotte, seized and sold for violation of Revenue Laws, ...	I.	200 00
March 5.	By fine received from Bark Circassian, for violation of Revenue Laws, ...	J.	100 00
March 6.	By amount received from Brig Rambler, seized and sold for violation of Revenue Laws, . .	K.	1,650 00
March 9.	By fine received from Ship Norman, for violation of Passenger Act,	L.	100 00
March 9.	By fine received from Ship Kingston, for violation of Passenger Act, ...	M.	100 00
763 March 18.	By fine received from Ship Charleston, for violation Passenger Act,	N.	200 00
April 8.	By amount received from sale of Sloop Annie K., for violation of Revenue Laws, . . .	O.	700 00
Omitted, 3. in order.	By amount received from sale of Schr. Manuel Del Furco, for violation of Revenue Laws,	P.	1,000 00
25.	By amount received from sale of Schr. Paquette De Inquinque, for violation of Revenue Laws,	Q.	1,200 00
May 1.	By sale of Schr. Elizabeth, seized for violation of Revenue Laws,	R.	1,000 00
764 May 11.	By sale of Brig Kini, seized for violation of the Revenue Laws,	S.	500 00
May 17.	By sale of Sloop Sisters, seized for violation of Revenue Laws, .	T.	400 00
May 20.	By sale of Schr. Mary, surrendered for violation of Revenue Laws,	U.	700 00

June 4. By amount received of Capt. Cobb, for smuggling from Bark Elizabeth Archer, ...	V.	$100	00
June 17. By sale of Sloop Polly, for violation of Revenue Laws, . .	W.	225	00
765 June 27. By sale of Schr. Elizabeth, for violation of Revenue laws, . .	X.	1,000	00
June 27. By sale of Sloop for violation of Revenue Laws, .	Y.	500	00
June 27. By sale of Bark Victoria, for violation of Revenue Laws, . .	Z.	800	00
June 27. By sale of Brig Treaty, for violation of Revenue Laws, . . .	Λ	150	00
June 27. By sale of Brig Adela, for violation of Revenue Laws, . . .	A	2,300	00
June 27. By sale of Schr. Lahaina, for violation of Revenue Laws, . .	O	900	00
		$19,301	90

766 Custom House, San Francisco, July 1st, 1850.

J. COLLIER,
Collector and Disbursing Agent.

(Copy.)

TREASURY DEPARTMENT, REGISTER'S OFFICE,
April 27th, 1855.

Pursuant to the Act of March 3d, 1797, entitled "An Act to provide more effectually for the settlement of accounts between the United States and Receivers of Public Moneys," I, F. Bigger, Register of the Treasury Department, do hereby certify, that the annexed is a true copy of an Original "Abstract of Forfeitures received, and account of the disposition thereof, by James Collier, Collector of the Customs for the District of Upper California,
767 from November 12th, 1849, to June 30th, 1850," rendered by said Collector, under date of July 1st, 1850, now on file in this office.

F. BIGGER,
Register.

Be it remembered, that F. Bigger, Esq., who certified the annexed transcript, is now, and was at the time of doing so, Register of the Treasury of the United States, and that full faith and credit are due to his official attestations.

In testimony whereof, I, James Guthrie, Secretary of the Treasury of the United States, have hereunto
[L. S.] subscribed my name, and caused to be affixed the
768 seal of this Department, at the City of Washington,

this twenty-seventh day of April, in the year of our Lord, 1855.

JAMES GUTHRIE,
Secretary of the Treasury.

"*Schedule No.* 54."

TREASURY DEPARTMENT, SOLICITOR'S OFFICE,
29th March, 1853.

SIR:—You have herewith enclosed for suit, the last adjustment of the accounts of James Collier, Esq., late Collector of the Customs, &c., with a copy of his account current,—and I also enclose a copy of the letter of the 24th inst., received at this office from the
769 Acting Commissioner of Customs, transmitting the above papers. You are already in possession of a certified copy of Mr. Collier's official bond, heretofore forwarded to you (on the 24th April, 1852). Very respectfully,

B. F. PLEASANTS,
Chief Clerk.

J. PRESCOTT HALL, Esq.,
U. S. Attorney, City of New York, N. Y.

Transcript No. 13,337 exhibits the balance due the U. S. to be $181,797.

(Indorsed.)

B. F. Pleasants, Solicitor's Office, Washington, March 29, 1853; enclosing adjusted account of James Collier.

"*Schedule No.* 55."

WASHINGTON CITY, 9th September, 1853.

Hon. James Guthrie, Secretary of the Treasury.

Sir: By the last statement of the account from the office of
770 Commissioner of Customs, of 7th March, 1853, it appears that the item of $47,352 33, charged by the late Collector of Upper California, as his share of seized mercandise, was reduced in the Auditor's office to the sum of $34,915 43, by charges against the fund of expenditures for storage, &c., it being decided by the Department that the Collector was entitled only to one-half of *net* proceeds upon this basis. In the statement of the Commis-
771 sioner of Customs the *whole* item is "suspended for statement of the expenses of storage in each case," &c. The proper vouchers for the required statement upon this subject are, as I understand, on file in the office of Commissioner of Customs.

I have respectfully to ask, that it be referred to the Commissioner of Customs to make a statement, so far as he may be able to do so, of the proper charges against this fund, and the *net* share belonging to the Collector, upon this basis.

I am given to understand that there may be superadded to these expenses, as chargeable to this fund, sundry payments made
772 by the Treasury Department, under a special act of Congress

of 28th Sept., 1850, to the respective owners of some of the seized liquors. It is contended, on the part of the Collector, that no part of these payments are properly chargeable to the Collector, or to the fund, so as to effect his share, and this question, in case of an adverse decision by the Department, we should expect to submit to the court upon the trial of the pending civil suits. In order
773 to present the question, however, it would be important, and I suppose indispensable, that we should be furnished with the former statement, or perhaps the two statements, one upon the basis we contend for, and the other upon the supposition that the fund is properly chargeable with the money paid or refunded under this special act of Congress, that the court may direct the allowance of the proper balance, according to their decision upon the law of the case. These statements, and particularly the former one, on
774 the basis assumed in the Auditor's office, is therefore respectfully solicited.

Very respectfully, your ob't servant,
JOHN A. COLLIER.

"*Schedule No.* 56."

(Copy.)

NEW YORK, 16th Sept., 1853.

Hon. H. J. Anderson, Commissioner of Customs.

Sir: The sureties of James Collier have this day paid in the Sub-Treasury office, New York, the sum of $118,546 05, as you will be advised by the Assistant Treasurer, by this day's mail. This amount will, of course, be passed to the credit of the late Collector, in your office, on the receipt of the official letter of Assistant Treasurer.
775 The Circuit Court (Nelson, Judge), now in session here, have, as I understand, given an opinion that the penal duties are *distributable* as penalties. This item is rejected in the statement of the account of 7th March, 1853. I have not seen the opinion of Judge Nelson in this particular case, and understand that the question came up only on a motion to dissolve the injunction, but the final decree will, I suppose, be in conformity with the expressed opinion. We have not access to the books of the Custom
776 House at San Francisco, so as to be able to give the particulars of this account, and indeed, I understand many of the books of the Custom House were destroyed by fire, including more or less of these accounts. I have, however, before me a statement obtained at my request from the Custom House there, of the additional duties imposed and collected by T. Butler King, which may perhaps afford something like a proximate estimate, but which is supposed, from the comparative situation and position of things at San Francisco, at the two periods, to fall short of the amount
777 of such duties in the time of the former collectorship. I

suppose you have these returns, but I annex a copy which you can compare with the returns. I suppose that the Secretary of the Treasury, when he shall be advised of the final decision of the court, will make some order upon the general subject, and we shall expect the late Collector of California to be credited with his distributable share, upon some approximate estimate of the amount, if the precise amount cannot be ascertained.

I leave to-morrow morning for Binghampton, N. Y., at
778 which place you will please hereafter to address me.

With great respect, your ob't servant,
JOHN A. COLLIER.

Additional duties imposed and collected by Hon. T. Butler King, and credited to the United States, from 15th January, 1851, to 15th November, 1852, inclusive.

From January 15, 1851,	to June 30, 1852,	. .	$16,316 37
" July 1,	to Sept. 30, "	. . .	4,698 30
" October 1,	to Nov. 15, "	. . .	1,987 60
			$23,002 27

779 Correct according to the books.

J. FRANK MILLER.

Custom House, San Francisco, Collector's Office, August 13th, 1853.

[L. S.] RICH. P. HAMMOND,
Collector.

"*Schedule No.* 57."

(Copy.)

TREASURY DEPARTMENT, OFFICE OF COMMISSIONER OF CUSTOMS,
September 26th, 1853.

SIR: In reply to your letters of the 13th and 16th instant, I have to say, that the restatement of the account of James Collier, late Collector, &c., at San Francisco, and the statement of receipts and expenses on account of the liquors seized by said Collector
780 at San Francisco, both of which have been made by direction of the Secretary of the Treasury, are now completed, and I transmit herewith copies of both at your request.

Very respectfully, your ob't servant,
H. J. ANDERSON,
Commissioner of Customs.

JOHN A. COLLIER, Esq.

"*Schedule No.* 58."

(Copy.)

Statement of Reclamations.

No. 108,384. Surprise, Sartiges,	. .	$1,677 50
112,320. Java, Belmont,	. . .	11,121 60

	112,439.	Java, Sartiges,	$1,727 04
	109,347.	Alcibiade, Sartiges,	7,932 96
781	109,348.	Rocher De St. Malo, Sartiges,	5,040 00
	109,352.	Le Vaillant, Sartiges,	1,344 00
	111,106.	Success, Sartiges,	940 80
	110,231.	Sylphide, J. W. Allen,	554 40
	111,107.	John Calvin, Sartiges,	579 62
	110,227.	Caroline Amalia, Bosh Spencer,	676 48
	109,349.	Chili, Sartiges,	3,158 40
782	107,407.	Alcibiades, Sartiges,	156 24
	111,531.	Edouard, Mul'or,	3,000 00
	111,699.	Duchess of Clarence, Robert Tyler,	2,331 00
	111,758.	Wodan, J. W. Allen,	1,008 00
	113,669.	Romena, G. Harrington,	2,540 16
	113,696.	Pera, A. H. Lawrence,	416 64
	113,845.	Chance and America, W. L. Hodge,	3,909 29
783	114,247.	Abeille, P. Sartiges,	322 56
	114,248.	Gauge, Sartiges,	2,019 16
		Actually paid,	$50,655 85
		Amount awarded on sundries to be paid when formal authority to receive is exhibited,	12,970 72
			$63,626 57
		Jane,	$537 60
		Chasely,	618 24
		Maria,	3,908 80
		America,	1,792 00
		Cuthbert Young,	806 40
		Edouard,	1,456 00
		Experiment,	84 00
784		Amalia,	1,792 00
		Lydia,	1,008 00
		Cecrops,	967 68
			$12,970 72
		Actually paid,	50,655 85
	110,231.	Sylphide, J. W. Allen, $554 40	
	113,669.	Romena, G. Harrington, 2,540 16	
			3,094 56
			$47,561 29
			12,970 72
			$60,532 01

(Copy.)

TREASURY DEPARTMENT, Office of Commissioner of Customs,
September 26th, 1853.

SIR:—In conformity to directions contained in your communication of the 10th inst., addressed to the First Auditor, and Commissioner of Customs, requiring a report of "the costs in each case of seizure of brandies, &c., by James Collier, late Collector at San Francisco, the sales of which amounted to $94,000;" stating
785 the proceeds of sale, expenses, and other information in regard to said seizures and sales, I respectfully submit the following statement:

It is found upon an examination of the accounts of sales, and other papers relating to the subject, that the proceeds of sales of the brandies and other liquors above referred to, seized by said Collier, amount to the sum of $83,043 13, being less by the sum of $11,661 53, than is stated by Mr. Collier, and upon which he claims the allowance. The aggregate amount of costs for storage and lighterage upon these liquors is $27,296 50, the whole
786 of which has been allowed to said Collier, in the settlement of his account. The amount paid by the Secretary of the Treasury, under the provisions of the Act of the 28th September, 1850, to the owners, or their agents, for these seizures, up to this date is $23,468 01, and there has been awarded the further sum of $18,150 28, which awaits the acceptance of the claimants. It is estimated by Mr. West, who is engaged in the examination of these claims, that for cases not yet acted upon or presented, the further sum of $25,000, will be required. The aggregate of these expenses and charges ascertained and estimated, amounts to $93,914 79,
787 being $10,871 66 more than was received from the sales, and showing that the United States has lost that sum by these seizures.

The evidence upon which these statements, in regard to the proceeds of sales, and expenses for storage, lighterage, &c., are founded, has been found in the abstract returned by Mr. Collier, and signed by him,—in the accounts of sales by other persons, to which no signatures are appended,—and in the vouchers for storage, lighterage, and other charges on file with his accounts. The annexed tabular statement shows the amount of sales from each vessel;
788 the sums charged by, and allowed to Mr. Collier, for expenses for each separately; the net proceeds, and the sums allowed and paid by the Secretary of the Treasury, under Act of 28th September, 1850.

The annexed certificate, by Mr. West, shows the names of the

owners or claimants, when known, and embraces all the information upon that point, on file in this Department.

I am, very respectfully,
Your obedient servant,
H. J. ANDERSON,
Commissioner of Customs.

Hon. JAMES GUTHRIE,
Secretary of the Treasury.

(Copy.)

TREASURY DEPARTMENT,
23d Sept., 1853.

The following claims, under the Act of Congress of the
789 28th September, 1850, for liquors illegally confiscated by James Collier, Collector of Customs at San Francisco, have been adjusted and paid.

French Ship Alcibiades, owners thereof, and five other shippers, on freight claiming 2,494 boxes brandy. 2,361 boxes admitted and paid, with interest, . .	$7,932 96
French Ship Alcibiades, Schroder & Vandermier, small lot of brandy in casks. Admitted and paid, with interest, ...	155 24
French Ship Rocher De St. Malo, owners, 1,500 cases brandy. Admitted and paid, with interest, .	5,040 00
790 French Ship Vaillant, owners, 400 cases brandy. Admitted and paid, with interest, ...	1,344 00
French Ship Success, sundry French citizens, 348 doz. beer, 48 doz. brandy, paid with interest, . . .	940 80
Hamburg Ship Sylphide, Vives, Schuth & Co., sundry malt and spirituous liquors. Amount admitted and paid, with interest, ...	554 40
English Ship John Calvin, P. B. Murphy, 365 boxes brandy. Admitted and paid, with interest, . .	799 62
Hamburg Schooner Carolina Amalior, De Boom, V. & G. 175 barrels beer, and 129 doz. brandy. Ad-	
791 mitted and paid, with interest, ...	676 48
French Ship Chili, two French citizens, 940 boxes brandy. Admitted and paid, with interest, .	3,152 40
English Bark Duchess of Clarence, R. S. Swanton, various liquors, and 5 cases refined liquors. Admitted and paid, with interest, ...	2,437 51
English Bark Wodan, Wm. Buckler, 300 doz. brandy. Admitted and paid, with interest, ...	1,008 00
Actually paid,	$24,022 41
Amount paid, ...	**$24,022 41**

	Amount awarded but not paid, . . .		$24,599 24
792	Estimated amount to be allowed, . . .		25,000 00
			$73,621 65
	Deduct from the above amounts,		
	Paid per Ship Sylphide, ...	$554 40	
	Bark Romena, ...	2,540 16	
	Marior, ...	3,908 80	
			7,003 36
			$66,618 29

The above three vessels not being on Collier's list, and there being no charges against the liquors in those vessels found among his accounts.

There are also claims reported upon and the awards stated
793 with the usual allowance of interest, at the rate of 6 per cent. per annum; and, although the parties have not formally accepted, they will probably do so.

French Ship Java, owners, 2500 cases brandy, admitted with interest, ...	$8,400 00
French Ship Java, sundry persons, 514 cases brandy, admitted with interest, ...	1,727 00
Ship Jane, Henry Vain, 80 cases brandy, admitted with interest, ...	480 00
French Ship Gange, sundry French citizens, various liquors, admitted with interest, ...	1,682 00
English Barque Chasely, R. Townes, for 60 casks ale, admitted with interest, ...	618 24
794 Ch. Barque Romena, Ber Vasquez, sundry liquors, admitted with interest, . . .	2,540 16
Ham. Barque America, Harrison, B. & H., sundry gin and brandy, admitted with interest, ...	1,792 00
Ham. Barque America, Henry Gunter, sundry gin, admitted with interest, ...	3,128 48
Hamb. Barque Marior, Felix Buxares, sundry liquors, admitted with interest, ...	3,908 80
Fr. Ship Abielle, Pedro Fort, 144 doz. ale, admitted with interest, ...	322 56
	$24,599 24

Besides which, there are several claims for seized liquors, presented at the Department, not yet examined, and there are known to
795 exist a still larger number of liquor claims, some of them of importance, for which no demand has yet been made on the Department. I should make a round estimate of the sum requisite

to pay all these, at 25,000 dollars, with due allowance for contingencies.

Respectfully submitted,

C. S. WEST.

"*Schedule No. 59.*"

Statement of Liquors seized and sold by James Collier, late Collector of Upper California.

Name of Vessel.	Proceeds credited to the United States in his account.	Storage, lighterage, &c. credited to Collector in his accounts.	Net proceeds in each case.	Paid to owners under Act of 28th September, 1850.	Awarded, but not yet paid.
796					
Brig Giraffe,	$4,580 68	$289 12	$4,291 56		
Schooner Caroline and Johanna,	310 62		310 62		
Ship Charles V.,	700 00	16 75	683 25		
Ship Chilé,	4,538 35	480 00	4,058 35	$3,153 40	
797 Bark Rocher de St. Malo,	8,933 19	950 00	7,983 19	5,040 00	
Ship Tarolinta,	4,418 10	540 00	3,878 10		
Brig Treaty,	131 96	295 50			
Bark Thames,	605 00		605 00		
Ship Java,	12,763 05		12,763 05		$10,127 00
Bark Clavelino,	742 75		742 75		
Bark Cuthbert Young,	1,281 27	606 00	675 27		
798 Bark Francesca,	220 05	198 00	22 05		
Bark David Malcolm,	705 73	468 38	237 85		
Bark Jane,	525 56	361 53	164 03		480 00
Bark Adolph,	71 29	107 75			
Brig Lady Howden,	104 25	33 75	70 50		
Ship Surprise,	404 19	477 00			
799 Bark Hector,	570 04	226 00	3,444 04		
Ship Alcibiade,	8,597 94	4,915 74	3,682 20	8,088 20	
Ship Success,	1,566 88	297 00	1,269 88	940 80	
Bark Caroline Amelia,	747 32	226 16	521 16	676 48	
Ship Cecrops,	642 32	410 00	232 32		
800 Schr. Coquette,	1,050 31	267 40	782 91		
Bark Amelia,	2,957 83	271 00	2,686 83		
Schr. Black Dog,	677 63	108 50	569 13		
Bark Chance,	343 80	473 87			
Schooner Pera,	1,389 42	1,170 12	219 30		
Bark America,	3,205 96	3,166 49	38 97		4,920 48
801 Bark Johanna,	2,479 05	2,504 50			
Ship Androcles,	1,632 94	1,004 25	628 69		
Bark Dutchess of Clarence,	1,953 79	1,740 62	213 17	2,437 61	
Cross, Hobson & Co.,	32 77	41 50			
Ship Wódan,	1,296 75	164 70	1,132 05	1,008 00	
802	$70,180 79	$21,812 13	$48,805 72	$21,344 39	$15,527 48
Aggregates brought over,	70,180 79	21,812 13	48,805 72	21,344 39	15,527 48
803 Bark Schedule,	42 02	103 50			
Brig Helen Stuart,	27 33	111 50			
Schooner Ricardo,	68 25		68 25		
Bark Will Watch,	309 75	269 37	40 38		

Bark Chaseley,		453 85	63 00	390 85		618 24
Ship Antelope,		91 74	39 37	52 37		
	Valiant,	2,175 42	22 00	2,153 42	1,344 00	
804	Bark Cornwall,	247 50	16 00	231 50		
	Schr. Flora,	1,608 00		1,608 00		
	Ship Gange,	963 74	1,188 00			1,682 00
	Georges,	718 05	447 70	270 35		
	Bark Inchinnan,	145 60	82 75	62 85		
	Daniel Grant,	7 00	10 50			
805	Lysia,	35 00	1,440 00			
	Hamburg,	111 30	71 75	39 55		
	Abeille,	302 40	5 62	296 78		322 56
Ship Cachalot,		39 55	92 50			
Schr. Hopewell,		108 50	272 75			
Brig Experiment,		58 00	55 50	2 50		
	Bark Pilgrim,	315 00	108 50	206 50		
806	B'k Jno. Calvin,	1,460 00		1,460 00	779 62	
	Eliz. Archer,	347 44	139 90	207 54		
Brig Cilicia,		148 90	30 00	118 90		
Ship Ralph Bernall,		478 36		478 36		
Brig Dorset,		279 36	76 25	203 11		
Schr. Courier de Tahiti.		486 05	285 00	201 05		
807	Bark Diana,	75 28	313 50			
	Brig Sabina,	7 73	97 00			
Brig Nord Poline,		40 48	70 41			
Bark Agincourt,		514 00		514 00		
Merlin.		837 54	30 00	807 54		
Mary Muir,		239 20	19 00	227 20		
Brig Cecilia Louisa,		120 00	30 00	90 00		
808		$83,043 13	$27,296 50	$58,536 72	$23,468 01	$18,150 28

The following payments, awards, and estimated claims, are derived from the certificate of Mr. West, hereto annexed:

Amount paid under Act of 28th September, 1850,	$23,468 01
awarded, but not yet paid, . . .	18,150 28
of estimated claims, . . .	25,000 00
	$66,618 29

"*Schedule No.* 60."

(Copy.)

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER OF CUSTOMS, Sept. 8th, 1853.

809 SIR: In compliance with your request, contained in the memorandum handed me yesterday, I have made the examination into such portions of the account of James Collier, late Collector of San Francisco, as was indicated therein, and respectfully report, that as regards the first item of $47,352 33, claimed as the Collector's share of seized merchandise, sold under agreements in writing, as forfeited for violation of the revenue laws, I find, by the papers, that the gross amount of said sales was $94,704 66,
810 one-half of which was credited to the United States, and one-half retained by the Collector.

If the Collector was entitled to any portion of the proceeds of

these sales, it could only be for a moiety of the *net* proceeds, the expenses attending the seizure, custody, transportation, sale, &c., being first deducted from the gross amount.

There is, among the papers relating to Mr. Collier's accounts, a sheet purporting to contain the names of all the vessels whose cargoes were seized and sold, headed a "Statement of all moneys received from sales of liquors," &c., the amount of which cor-
811 responds with this item in his account, and is undoubtedly the one referred to. There are, also, papers on file containing bills of particulars of payments for storage and lighterage, which go to make up the aggregate of his charges for these expenses, all of which have been allowed and paid by the United States. These bills contain the sums paid for storage and lighterage on merchandise in each vessel, but the sums paid for expenses on the seized liquors are so mingled with those paid for expenses on other
812 goods, that the amount cannot be accurately ascertained without a careful scrutiny, which would require considerable time. I have made an examination of some of them, and find that the amount of sales from nine vessels was $13,738. The expenses for storage and lighterage were $9243. If this proportion should hold good throughout, it would swell the expenses for these purposes alone to $63,000. This sum being deducted from $94,704, the gross amount of sales, would leave the sum of $31,704 to be
813 divided between the United States and the Collector. This exhibit would seem sufficient to demonstrate that even if the Collector's claim to a moiety of the *net* proceeds of these sales was admitted it would be greatly reduced from the sum claimed. Of the agreements in writing respecting the disposition of these goods, signed by the Collector, and the owners or consignees, there are but six in possession of the Department, and none others are known to exist. It may be presumed that they were all of the same cha-
814 racter, and if so, they all provide that the question respecting the legality of the seizures should be submitted to the decision of the Secretary or Solicitor of the Treasury, and if the legality of the seizures were confirmed, the goods were to be sold at *public auction.*

The Secretary of the Treasury, Mr. Meredith, writes to Mr. Collier, under date of January 15th, 1850, in reference to an application "to remit certain forfeitures arising from the importation of spirits, &c., in casks of a capacity forbidden by the law," being for these goods, as follows:

815 "In reference to these and similar cases I have to state, that the Department has no power to afford relief by the remission of penalties incurred by infractions of the revenue laws, except as conferred by the mitigating and remitting law of 3d March, 1797, in cases presented in the mode prescribed by that law, having undergone the summary judicial examination therein provided. Your

attention is particularly called to the provisions of that law, and you will perceive that upon the report of the Judge of the proper
816 District Court, after his examination of the case on the petition of the applicant, this Department has the power to remit, provided, in his opinion, the penalty or forfeiture has been incurred without wilful negligence or any intention of fraud."

And under date of March 9th, 1850, Secretary Meredith again writes to Mr. Collier as follows: "Referring you to my letter of the 15th of January last, in regard to seizures made by you of
817 certain spirits imported in quantities forbidden by law, I have to inform you that no sale of any such articles can legally take place, except upon due condemnation by decree of court. In view of the peculiar condition of things in California, and the circumstances connected with these importations, the Department is disposed to extend every indulgence and relief consistent with law. In order, thereupon, that the parties may avail themselves of the
818 privilege afforded them by law of applying to the Department for remission of the forfeitures in these cases in the mode prescribed, you are requested not to resort to legal proceedings to obtain condemnation of the goods under seizure."

And the Secretary then directs the mode in which parties applying for relief should proceed. I find no other action of the Secretary on the subject.

There are several letters and affidavits, in possession of the Department, alleging that portions of these goods were disposed of at private sale, and there is also complaint of great discrepancy between the storekeeper's account of merchandise stored, and the amount returned as sold.

819 It appears, by the accompanying schedule, that the Government has already paid or awarded for claims growing out of these seizures the sum of $39,147; and it is estimated that there are now on file, claims remaining to be considered, which will require the sum of $19,800 more, and others are known to exist, which have not yet been presented—which two sums being added to the estimated expense before referred to of $63,000, exceed the gross amount of sales.

In reference to the claim of $12,300, in the account, under
820 date of 12th February, 1853, I do not find that any papers have been presented to sustain it. It is said to be for the Collector's share of bonds taken from the owners or consignees of the Bark Collooney, the Brig Ocean, and the Bark Lulla. These were English vessels, seized with their cargoes, for violation of the Navigation Laws, and the bonds are understood to be still uncollected. I have examined the correspondence of the Department with Mr. Collier, on this subject, and find three letters from Secretary Meredith, as follows. One under date of March 26th, 1850, he writes:

"The merchandise so imported from a port or place within the

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817 certain spirits imported in quantities forbidden by law, I have to inform you that no sale of any such articles can legally take place, except upon due condemnation by decree of court. In view of the peculiar condition of things in California, and the circumstances connected with these importations, the Department is disposed to extend every indulgence and relief consistent with law. In order, thereupon, that the parties may avail themselves of the
818 privilege afforded them by law of applying to the Department for remission of the forfeitures in these cases in the mode prescribed, you are requested not to resort to legal proceedings to obtain condemnation of the goods under seizure."

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"The merchandise so imported from a port or place within the

United States, to San Francisco, is liable to forfeiture, but
821 not the vessel in which the importation may have been made, nor that part of her cargo brought from a port or place in the British possessions."

"The seizure of the 'Collooney' was, therefore, upon the facts stated, unauthorized and illegal, and the vessel should be at once surrendered to the owners or authorized agent, together with that portion of her cargo (if such was seized), as was taken on board that vessel within the British possessions, on payment of the proper duties and charges."

"If the party desires to have the forfeiture of the merchandise, brought in the Collooney from a port in the United States to San Francisco, remitted, the case must be submitted to the De-
822 partment in the manner prescribed in the remitting law of 1797."

"I cannot close this communication without stating, that in applying the provision of the 4th section of the Navigation law of 1st March, 1817, it is unaccountable, and a matter of serious regret to this Department, that you should have overlooked the fact, that under the terms of that section, the 'Collooney' was not liable to forfeiture.

"In view of such errors, producing, as they do, serious individual loss, and subjecting this Department to reclamations and complaints of foreign powers, it becomes my duty to admonish you of
823 the necessity of the utmost care, circumspection, and judgment on your part, in executing the revenue laws in your district." And in regard to the Brig Ocean, he writes, under date of April 9th, 1850:

"Upon the representation of the facts in this case, the Department regards the importation thus made as having been in contravention of the provisions of the laws of the United States then in force, and that a forfeiture would properly accrue." "But if the party in this case desires a remission of the forfeiture, you will advise him as to the course to be pursued, in order to bring the matter before the Department in the mode prescribed by the remitting law of 1797, and you will afford him, and others in similar cases,
824 every proper facility for the accomplishment of that object, as you have been heretofore instructed."

In regard to the Bark Lalla, he also writes as follows, under date of April 9th, 1850:

"Upon the facts in this case, as they are understood by the Department, from the representation of Mr. Scott, the importation must be regarded as having been made in contravention of laws then in force. If the party desires relief, he must apply to the Court having jurisdiction, and upon the judicial report of the facts as prescribed in the remitting law of 1797, the Department will be prepared to entertain and act definitely upon the case. I need add

nothing to the instructions on this subject transmitted to you
825 in my letters of January 15th, and 9th ultimo.

I have again to remind you, that property seized for violation of the Revenue and Navigation Laws, can only be sold in pursuance of a decree of condemnation of a Court of competent jurisdiction."

I do not find that any other action has been taken by the Department, in reference to these cases, or that any application has been made by the parties for the cancellation of those bonds, or any evidence that they have been collected by the United States.

I have the honor to be, very respectfully,

Your obedient servant,

H. J. ANDERSON,
Commissioner of Customs.

826 Hon. JAMES GUTHRIE,
Secretary of the Treasury.

"*Schedule No.* 61."

(Copy.)

TREASURY DEPARTMENT, 17th Sept., 1853.

SIR:—In compliance with the request contained in your letter of the 10th inst., I enclose herewith authenticated copies of the twenty-seven papers therein referred to.

Very respectfully, your obd't servt.,

JAMES GUTHRIE,
Secretary of the Treasury.

JOHN A. COLLIER,
Binghampton, New York.

UNITED STATES OF AMERICA,
TREASURY DEPARTMENT, 17th Sept., 1853.

Pursuant to the Act of Congress of 22d February, 1849, I hereby certify that the annexed copies of twenty-seven original
827 papers, are true and exact copies of the same twenty-seven original vouchers or documents deposited by James Collier, Collector of Customs at San Francisco, on the 1st of December, 1851 (as per receipt then given to said James Collier), in this Department.

In witness whereof, I have hereunto set my hand, and caused
[L. S.] the seal of the Treasury Department to be affixed, on the day and year first above written.

JAMES GUTHRIE,
Secretary of the Treasury.

(Copy.)

Know all men by these presents, That we, William Sim, as principal, and Arte M. Vanostrand, as surety, both of San Fran-
828 cisco, in Upper California, are held and firmly bound unto the United States of America, in the sum of ten thousand

dollars, lawful money of the United States, to be paid to the said United States. For the payment whereof, well and truly to be made and done, we bind ourselves, our heirs, executors and administrators, and every of them, jointly and severally, firmly by these presents, sealed with our seals, and dated at San Francisco, the 23d day of February, A. D. 1850: Whereas the cargo of the British barque, called the "Colloney," whereof John Livingston was late
829 master, consisting chiefly of lumber and shingles, was, on the seventeenth day of November, A. D. 1849, at the port of San Francisco aforesaid, seized by James Collier, Esquire (Collector of the Customs, on behalf of the United States, for the Collection District of Upper California), as forfeited for an alleged violation of the Navigation and Revenue Laws of the United States; and whereas, on application of the said William Sim, as consignee of the said cargo, the same was released, upon the condition that a sub-
830 mission of the question of the legality or illegality of the said seizure and forfeiture should be made to the Secretary of the Treasury of the United States, with such facts touching the cases of the said seizure and alleged forfeiture as the said parties might respectively present, and whose decision as to the said seizure and forfeiture, and the causes thereof, should be final and conclusive.

Now the condition of the above obligation is such, that, if the above bounden William Sim and Arte M. Vanostrand, or either of them, or any one in their behalf, shall well and truly abide
831 by, perform, fulfil, and comply, with such decision as the Secretary of the Treasury may pronounce in the premises upon a submission of the said case, with the facts thereon as aforesaid, then this obligation to be void, else to remain in full force and virtue.

(Signed) A. M. VANOSTRAND, [L. S.]
WILLIAM SIM, [L. S.]

Signed, sealed, and delivered in presence of
(Signed) F. D. BUNHAM.

(Copy.)

Know all men by these presents, That we, Joseph F. Woolly and Robert C. Janion, are held and firmly bound unto the United States of America, in the penal sum of four thousand dollars, to
832 which payment, well and truly to be made, we do bind ourselves, our heirs, executors, and administrators, firmly, by these presents; sealed with our seals, dated this twelfth day of January, one thousand eight hundred and fifty.

The condition of the above obligation is such, that, whereas the British brig, called the "Lalla," of Liverpool, whereof Joseph Woolly is master, arrived at the port of San Francisco, on the eleventh day of December, one thousand eight hundred and forty-nine, with a cargo, partly composed of flour, lumber, and fruit, which said

goods were laden on board the said vessel at the port of Valparaiso, in Chili, and are not the growth, product, or manufacture of
833 Great Britain, or her possessions, and were imported in contravention of the Act of Congress of the United States passed the third day of March, 1817, concerning vessels in the foreign trade, whereby the said vessel, together with her tackle, apparel, and furniture, has become forfeited to the United States, and has been seized by the Collector of Customs for the District of California, and realized, upon giving bond for the appraised value thereof, until the said Joseph F. Woolley shall be enabled to present his petition to the Secretary of the Treasury, praying for a remission of the forfeiture, in consideration of the equitable circumstances of the case.

834 Now, therefore, if the said Joseph F. Woolley and Robert C. Janion shall, and do, well and truly, comply with the decision of the Secretary of the Treasury, and pay the just and full sum of two thousand dollars, the appraised value of the said vessel; if the said forfeiture be not remitted, and the same be adjudged to be paid by the final order of the Treasury Department, then the above obligation to be void and of no effect, otherwise to be and remain in full force and virtue.

In witness whereof, we have hereunto set our hands and seals the day and year first above written.

STARKEY, JANION & CO.
ROBERT C. JANION, [L. S.]
J. F. WOOLLEY, [L. S.]

835 Sealed and delivered in the presence of
(Signed) E. K. FALKNER,
J. WILSON.

We, the undersigned, having on board the British Brig "Lalla," according to the directions of the Collector of Customs of this port, to report as to the value of said Brig, do hereby certify, that the said Brig Lalla, having been damaged according to survey lately held on her by competent judges, in which damages were given at one thousand one hundred dollars; and, in consideration of said damages, we beg to state, that the full value of said Brig, tackles and stores, as she now lies, is two thousand dollars.

(Signed) EDWARD A. KING,
WILLIAM WEBSTER.

836 SAN FRANCISCO, January 12th, 1850.

Know all men by these presents, That Charles Minturn, the attorney in fact for the Steamer "Senator," arriving between San Francisco and Sacramento City, and Joseph Kuchel, of the said City of San Francisco, Alta California, are jointly and severally held, and firmly bound, unto the Collector of Customs for the United States for the District of Upper California, in the penal sum of two thousand dollars; for the payment of which, well and truly to be made,

we bind ourselves, our heirs, and each of them, our executors, administrators, and assigns, firmly, by these presents; sealed with our seals, and dated the 18th day of January, in the year of our
837 Lord one thousand eight hundred and fifty.

The condition of the above obligation is such, that, whereas the British Brig "Ocean" has been seized, together with the cargo, for violation of the Revenue and Navigation Laws of the United States; and whereas a part of her cargo is one hundred and eighty tons of English coal, belonging to the owners of the said Steamer "Senator."

Now, it is agreed that the question as to the legality of the seizure of said coal, shall be submitted to the decision of the Secretary or the Solicitor thereof, and such decision to be final and conclusive
838 in the premises. Now, if said Secretary or Solicitor shall determine, that said seizure was valid and rightfully made by the Collector aforesaid, then the said bond to be of full force and virtue. But if it shall be adjudged, that said seizure was invalid, and that the said Brig might rightfully bring said goods, in the manner and from the port set forth, in the agreed case to be thus submitted, then this bond to be void, and the duties imposed by law only to be paid, and no further or other litigation is to arise out of said
839 cause.

(Signed) JAMES CUNNINGHAM, [L. S.]
By Charles Minturn, his Attorney in fact.
L. MAYNARD, [L. S.]
WILLIAM NEB, [L. S.]
By Charles Minturn, his Attorney in fact.
EDWARD MINTURN, [L. S.]
By Charles Minturn, his Attorney in fact.
J. S. RUCKLE, [L. S.]

Sealed, signed in the presence of
(Signed) JAMES NELSON,
ABM. S. ALLISON,
J. O. GOODWIN.

Know all men by these presents, that we, Charles Melhado, Cæsar F. Schwerin, and Edward D. Hatley, of the City of San Francisco, Alta California, are jointly and severally held and firmly bound unto the Collector of Customs of the United States, for the District of Upper California, in the penal sum of eight thousand dollars; for the payment of which, well and truly to be made, we bind our-
840 selves, our and each of our heirs, executors, administrators, and assigns, firmly by these presents. Sealed with our seals, dated the sixteenth day of January, in the year of our Lord one thousand eight hundred and fifty. The condition of the above obligation is such, that whereas the British Brig "Ocean" has been seized, together with her cargo, for violation of the Revenue and Navigation Laws of the United States. And whereas, a portion of her cargo

consists of one hundred and twenty packages of merchandise
841 claimed to be of English manufacture, amounting in value to the sum of two thousand dollars, and it is agreed that the question as to the legality of the seizure of the said one hundred and twenty packages shall be submitted to the decision of the Secretary or the Solicitor thereof, and such decision to be final and conclusive in the premises. Now if the said Secretary or Solicitor shall determine that said seizure was valid and rightfully made by the Collector, against the said bond to be of full force and virtue, but if *if*
842 shall be adjudged that said seizure was invalid, and that the said brig might rightfully bring said goods in the manner and from the port set forth in the agreed case to be thus submitted, then this bond to be void, and the duties thereof imposed by law only to be paid, and no further or other obligation is to arise out of the said cause.

(Signed) CHARLES MELHADO, [L. S.]
CÆSAR SCHWERIN, [L. S.]
E. D. HEATLEY. [L. S.]

Executed by all parties in the presence of
843 (Signed) WM. L. HIGGINS.

(Copy.)

To the Collector of Customs for the District of Upper California: Whereas the British Barque "Ocean," now in the port of San Francisco, has been seized, together with her cargo, for a violation of the Revenue and Navigation Laws of the United States. Now, this is to witness that I, the undersigned, being the owner of a certain portion of the cargo on board said barque, particularly specified in a
844 certain invoice thereof, amounting in value to the sum of $600, I do hereby agree to make a special deposit of said sum with the Collector, upon this condition, to wit: that the question of the legality of the seizure of said barque and cargo shall be left to the decision of the Secretary of the Treasury or the Solicitor thereof. If it shall be determined by them, or either of them, that said seizure might rightfully and legally be made by said Collector, then the amount thus deposited shall be passed to the credit of the United States. If, on the contrary, it shall be decided by said Secre-
845 tary or Solicitor that said seizure was unlawfully made, then the duties to be paid out of said sum, and the balance to be refunded, and no other or further litigation or question is to be made or had in the premises.

Witness my hand and seal at San Francisco this 5th day of February, 1850, A. D.

(Signed) A. HUGNES, [L. S.]

Witness.
(Signed) J. D. CARR.

(Copy.)

Know all men by these presents, that whereas J. Collier, as Collector

of Customs for the District of Upper California, has seized as forfeited forty baskets of gin and twenty-six barrels of porter,
846 of four dozen each, marked T. B., for being in packages of less than fifteen gallons, imported in the Bark "Siena," from Buenos Ayres, now lying at anchor in the Bay of San Francisco.

This is to witness, that the legal question as to the validity of the seizure aforesaid, and the forfeiture of said goods so seized, shall be left to the decision of the Secretary of the Treasury or the Solicitor thereof, and such decision to be final and conclusive.

Should the said Secretary or Solicitor aforesaid, determine the said gin and porter are liable to seizure, then and in that case the aforesaid goods to be sold by the Collector at public auction, for the benefit of the United States, as provided by law, and Thomas
847 Belcarce, the owner thereof, to release all right and title in law or equity the same.

In witness thereof, I set my hand and this thirty day of November, 1849.

THOMAS G. BELCARCE,
F. LAISSEIZ.

(Copy.)

Know all men by these presents, that whereas J. Collier, as Collector of Customs for the District of Upper California, has seized as forfeited certain packages of brandy and gin, contained in packages of less of capacity than allowed by the law of the United States, imported into said District in the Hamburg Bark Johanna, from Hamburg, now lying at anchor in the Bay of San Francisco. Now, this is to witness, that the legal question as to the validity of the seizure aforesaid, and the forfeiture of said brandy and gin so seized, shall be left to the decision of the Secretary of the Treasury or the
848 Solicitor thereof, and such decision to be final and conclusive in the premises; should the said Secretary or the Solicitor as aforesaid, determine that said brandy and gin were liable to seizure, then and in that case said brandy and gin is to be sold by the Collector at public auction, for the benefit of the United States, as provided by law, and Theodor Krook agent for the owner thereof, hereby released all right and title in law or equity to the same.

Witness my hand and seal at San Francisco, this thirtieth day of November, 1849.

(Signed) THEODOR KROOK, [L. S.]
J. C. RAFER,
Captain.

(Copy.)

Know all men by these presents, that whereas J. Collier, as Collector of Customs for the District of Upper California, has
849 seized as forfeited certain packages of spirits and porter, and all the spirits in packages of less than fifteen gallons, and the

ale and porter in barrels containing less than six dozens each, imported into said District in the Hamburg Ship Franziska. Now, this is to witness, that said spirits and ale having been surrendered to the United States by the owners thereof, until the legal question as to the validity of said seizure shall have been decided by the Secretary or the Solicitor thereof.

I, N. Dan, master of said ship, do also hereby surrender, in the same manner and upon the terms above stated, all right in
850 law or equity which I may have for myself, and in behalf of the owners of said ship to my freight upon the herein mentioned merchandise.

N. DAN.

SAN FRANCISCO, November 28th, 1849.

(Copy.)

Know all men by these presents, that whereas J. Collier, as Collector of Customs for the District of Upper California, has seized, as forfeited, certain packages of ale and porter, imported into the said district in the Danish Ship Androklos, from Valparaiso, now lying at anchor in the Bay of San Francisco, viz.:

+ 101–183, 127 barrels ale, each 2 doz.
" 131–224–225–286, 62 barrels ale, each 3 doz.
" 287–303, 17 barrels porter, each 6 doz. half-bottles.

Now, this is to witness. That the legal question as to the
851 validity of the seizure aforesaid, and the forfeiture of said ale and porter so seized, shall be left to the decision of the Secretary of the Treasury, or the Solicitor thereof, and such decision to be final and conclusive in the premises; should the said Secretary or Solicitor aforesaid determine that said ale and porter were liable to seizure, then in that case the said ale and porter is to be sold by the Collector, at public auction, for the benefit of the United States, as provided by law; and S. H. Vivis, the owner thereof, and W. J. Schmidt, the Captain of Ship Androklos, release all right and title in law and equity to the same.

Witness our hands and seals, at San Francisco, this twenty-fourth day of December, A. D. 1849.

852 S. H. VIVIS,
W. J. SCHMIDT.

(Copy.)

Know all men by these presents, that whereas J. Collier, as Collector of Customs for the District of Upper California, has seized, as forfeited, certain packages of ale and porter, containing only four dozen each, imported into said district in the Hamburg Ship Franciska, now lying at anchor in the Bay of San Francisco.

Now, this is to witness, that the legal question as to the validity of the seizure aforesaid, and the forfeiture of said porter and ale so

seized, shall be left to the decision of the Secretary of the
853 Treasury, or the Solicitor thereof, and such decision to be final and conclusive in the premises; should the said Secretary or Solicitor as aforesaid, determine that said porter and ale were liable to seizure, then, and in that case, said porter and ale is to be sold by the Collector, at public auction, for the benefit of the United States, as provided by law, and I, Jose Justinanno Rodriguer, the owner thereof, hereby release all right and title in law or equity to the same.

Witness my hand and seal at San Francisco, this twenty-fourth day of November, 1849.

854 JOSE JUSTINIANNO RODRIGUER. [L. S.]

(Copy.)

Know all men by these presents, that whereas J. Collier, as Collector of Customs for the District of Upper California, has seized, as forfeited, certain packages or kegs of spirits containing less than fifteen gallons each, imported into said district in the Hamburg Ship Franciska, now lying at anchor in the Bay of San Francisco.

Now, this is to witness, that the legal question as to the validity of the seizure aforesaid, and the forfeiture of said spirits so seized, shall be left to the decision of the Secretary of the Treasury,
855 or the Solicitor thereof, and such decision to be final and conclusive in the premises; should the said Secretary, or Solicitor as aforesaid, determine that said spirits were liable to seizure, then, and in that case, said spirits are to be sold by the Collector, at public auction, for the benefit of the United States, as provided by law, and I, Albert Brewning, the owner thereof, hereby release all right and title in law or equity to the same.

Witness my hand and seal at San Francisco, this twenty-fourth day of November, 1849.

856 ALB. BREWNING. [L. S.]

(Copy.)

SAN FRANCISCO, December 10th, 1849.

JAMES COLLIER, Esq.,
Collector of Port, San Francisco.

DEAR SIR:—In behalf of the owners of the following property, consigned to us, per British Brig Giraffe, Captain Robinson, from Sydney, New South Wales, viz.:

56	casks	bottle	beer,	Lentos'	brand,	3 doz.	each.
14	"	"	porter,	"	"	"	"
9	"	"	ale,	"	"	"	"
286	"	"	"	Marzetz	"	"	"
25	"	"	"	"	"	4 doz.	each.

31 casks bottled porter, 4 doz. each.
29 " " " 8 doz. each.

857 450 casks in all.

Also 47 casks British gin, being in packages, contrary to the provisions of the Tariff, and having been taken possession of by your order, as confiscated, we would request that you would consent to allow the same to be sold at public auction, on Wednesday the 19th December, 1849, viz., Messrs. Robertson & Walton, at our warehouse, in the rear of our premises in Montgomery Street, by samples, proceeds of course to be held by you, in trust, for the decision of the Secretary of the Treasury, or the action of Congress upon any memorial that may be presented to such interests.

858 The object of this measure is to prevent the proceeds of the property in question being wasted or consumed with expenses, before any decision can be had; and it is agreed by us, as agents for the owners, that we waive any legal measures in consideration of your granting this privilege. We also understand that you will represent to the Department at Washington, that the packages are original, as received in Sydney, from London, and that the American Consul, resident at that port, did not apprise the shippers of the fact, that such packages were not in contravention of the Tariff; also, that similar packages had been allowed entry by several vessels from Sydney, prior to your entering upon the

859 duties of your office.

Yours, very faithfully,
GEORGE S. WEDDLE & CO.
per W. R. WADSWORTH.

(Copy.)

SAN FRANCISCO, November 27th, 1849.

SIR:—We beg leave to bring under your notice the following particulars, of goods which have arrived at this port in vessels to our consignment, and which have been either already seized, or are at this moment liable to seizure, on account of their having been imported in illegal packages.

British Bark Secret, J. S. & C. 49 boxes pale Cognac, 49 doz.
" " " J. S. & C. 72 " Martel brandy, 100 doz.
" " " J. S. & C. 100 " gin, 100 doz.

Bremen Schooner Athen, L. P. 1–200, 200 boxes Geneva,

860 200 doz.

Bremen Schooner Athen, C. J. 1–50, 50 bxs. Geneva, 50 doz.
Bremen Schooner Athen, E. O. P. 173–272, 100 boxes Geneva, 100 doz.
British Bark Chance, L. E., 25 casks brandy, 25 doz.
Bremen or Hamburgh Bark America, S. 1–300, 300 boxes Geneva, 300 doz.

And some quarter-casks of Geneva.

With respect to the 121 boxes of brandy, and the 100 boxes
861 of gin, seized on board of the Secret, and now in public store, we venture to hope that you will reconsider the case, and permit the same to be entered for duty, they having been imported a considerable time previous to the late prohibition, and several separate parcels of the same nature, and in the very same invoice, having been already entered and admitted to duty.

The Bremen Schooner Athen having also arrived here previous to the recent order, we hope that in her case also, you will prevent the entry of the 350 boxes of gin, now under seizure.

862 With reference to the several packages of spirits liable to seizure, on board the British Bark "Chance," and the Hamburg or Bremen Bark "America," both arrived in this port within the last two days. We request your permission to offer the same for sale, immediately depositing the proceeds of such sale in your hands, to await the decision of the Secretary of the Treasury on the subject, as by this course only can be avoided the enormous expense for store-rent, which would be entailed on the goods, if it is
863 required that they should remain in public store until the question is decided by the Government at Washington.

We also have to request that you will be good enough to inform us, whether it is your intention to communicate with the Secretary of the Treasury on the above question, or whether it is to be left to each individual merchant to represent his own case.

We have the honor to be,

Sir, your most obdt. servants,

864 STARKEY, JUNIORS, & CO.

(Copy.)

San Francisco, June 19th, 1850.

Sir:—I beg to notify that six China wooden houses, shipped per Schooner "Black Dog" to my consignment, have been abandoned to the vessel, and pray that the same may be removed to the public store.

Marked as follows:

R. R. No. 10 @ 11 Two large Houses 25×30.
S. B. " 1 @ 4 Four small do. 15×24.

I remain, sir,

Your most obedient servant,

865 Signed, A. H. FAYER.

To Colonel Collier, Collector of Customs, San Francisco.

(Copy.)

San Francisco, 8th July, 1850.

James Collier, Esq., Collector of the Customs, San Francisco.

Sir:—Having received to my consignment per the following vessels:

542 boxes Cognac brandy, per French Ship Alcibiade, Capt. Erable.
1500 do. do. do. Bark Rocher de St. Malo, Capt. Gaignony.
400 boxes Cognac brandy, per French Ship Vaillant, Capt. Amion.

2442 boxes. Together two thousand four hundred and forty-two boxes of 12 bottles each, French Cognac brandy.

Said Cognac was surrendered to the Custom House of San Francisco, in consequence of a violation of the laws of the United
866 States of America, as per your decision. As consignee of said goods, I beg your Honor will order a certificate to be given me of the above-mentioned seizure, for the use of those interested.

I have the honor to be, sir,
Your obedt. humble servant,
Signed, J. GARDET.

(Copy.)

SAN FRANCISCO, U. C., June 17, 1850.

To Colonel Collier, Collector of the Customs, San Francisco, of Upper California:

Sir:—The undersigned has the honor to recall to your recollections the fact, that on the arrival of the French Ship "Vaillant," Captain Amion, consigned to him, the cargo was declared for San Francisco and a market.

The undersigned has since, on several occasions, in vain re-
867 quested leave to re-export four hundred cases of Cognac brandy, forming part of the said cargo of the "Vaillant."

Should you still consider it your duty to refuse to allow the re-exportation of these brandies, he at least hopes, that awaiting the result of the claim instituted by the proprietors of these goods for the restitution of the same, you will see no objection to their immediate sale at public auction, deliverable to the purchaser at the ship-tackles, a measure which will save the owners the great expenses attending landing and storage, and one which has already been found expedient in the cases of the French Ship Java and
868 Alcibiade.

Should you see fit to refuse this latter request, the undersigned has furthermore only to declare his readiness to cause the immediate delivery of the said brandies to your orders, contenting himself with protesting, and by the present he does protest against a proceeding calculated to seriously injure the interests of the parties concerned.

Requesting the favor of an answer,
I subscribe myself, sir,
Respectfully your most obdt. servant,
J. GARDET.

(Copy.)

SAN FRANCISCO, April 25, 1850.

James Collier, Esq., Collector.

Dear Sir:—Finding I have imported a quantity of beer in the Ship Tarolinta from Shanghai, which it appears is a contraband article, also making the ship liable for seizure, I have to re-
869 quest that you will adopt such measures as may least do injury to the owners. I have to state that I am ready and willing, should it meet with your kind approbation, to release all right and interest in the same to you, if the ship can be released.

Hoping that you may be able to place the matter in a favorable light for the parties interested,

I remain your obt. servant,

GRISWOLD.

(Copy.)

SAN FRANCISCO, March 31st, 1851.

Col. J. Collier, Collector of the Customs, San Francisco.

DEAR SIR: I hereby abandon to the Custom House of this port the following goods, imported by me, in illegal packages, on
870 board the Hamb. Schooner "Carolina and Johanna."

17 barrels of beer.
3 casks ale and porter.
37 cases of brandy.
169 cases gin.
37 demijohns gin.

And hereby forfeit all right and claim to the above, at present and for the future. I am, very respectfully,

CHR. CHRISTIANS,
For Scherl & Co., owners of the above goods.

(Copy.)

To the Collector of the Port of San Francisco.

The following goods are very much in my way, and I hope the Collector of the port will have the kindness to take charge of the same, and oblige

Yours, truly,

viz.:

[P] 4 cases brandy.
F O P 300 " gin.
[C 1] 20 jars oil.
S H
C P 1 cask hardware.
1 bag rice.

Nov. 20, 1849.

871 EDWARD HEERER,
Master of Bremen Ship Athens.

(Copy.)

SAN FRANCISCO, March 25th, 1850.

The undersigned, consignees and agents of the Schooner Hopewell, of New Orleans, hereby abandon all claim to one hundred and thirty demijohns of gin, and thirty cases of brandy, imported in said vessel, and seized by Capt. Alexander V. Fraser, of the U. S. Revenue Brig Lawrence, and we do hereby authorize the Collector of the Customs of this district to dispose of said liquors, for the benefit of all concerned, in order to avoid further charges and litigation.

872 MACONDRAY & CO.

(Copy.)

SAN FRANCISCO, 25th September, 1850.

J. Collier, Esq.,

SIR: We beg to inform you, as consignee of 350 cases, and 20 quarter casks of gin, also 10 cases of brandy, now on board of the Schr. "Hora," in this port, that we wish to surrender them to the Custom House, and hereby relinquish all further claim to them.

Your most ob't servants,

GERTH, DUNCKER, BOTTCHER & CO.

J. COLLIER, Esq.,
Collector of the Port of San Francisco.

(Copy.)

SAN FRANCISCO, 11th June, 1850.

873 To the Collector of Customs, Port of San Francisco.

SIR: In the "Ralph Bernal," lately arrived from Sidney, there are the following cases containing brandy and gin:

H $\frac{1}{2}\frac{1}{3}$ $\frac{1}{3}\frac{2}{3}$ 120 half cases Geneva.
15

R $\frac{8}{4}\frac{8}{8}$ 50 cases brandy.
82

Consigned to me. Now, as the same are in illegal packages and contrary to law, I hereby agree to surrender them, unconditionally, to the officers of the Customs appointed to receive the same.

I have the honor to remain,

Your most obedient servant,

874 (Signed) O. B. ELSWORTH.

(Copy.)

To the Collector of the Customs, San Francisco.

SIR: We beg leave to inform you that 39 cases brandy, marked H B and K G, 1 dozen, have arrived per ship "Thomas," Headley, to our consignment, the same being in illicit packages, but were shipped under the impression that such packages were in conformity

with the Customs regulations here. We abandon the said cases of brandy, and

Remain, sir, your most ob't servants,
HART BROTHERS.

(Copy.)

Col. Collier, Collector of Customs.

SIR: As agent ad interim for Mr. John Beck, I hereby beg
875 to notify you that I surrender unto the U. States of America, the following, imported per British "Agincourt," from Pt. Adelaide, in contravention with the revenue laws of the U. States of America.

[ ] [ ] $\frac{1}{8}$ =6 hhds. gin, under 90 gallons each.
[J] $\frac{1}{16}$ =4 qr. casks gin, under 90 gallons each.

I remain, dear sir, very respectfully,
(Signed) J. B. MONTEFIORE.

SAN FRANCISCO, August 8th, 1850.

(Copy.)

SAN FRANCISCO, Aug. 10, 1850.

J. Collier, Esq.,

SIR: We beg to inform you that we, as consignees, wish to
876 surrender to the Custom House 365 cases brandy, on board of the Br. Ship "John Calvin," now in this port, and hereby relinquish all claim to them.

Your most ob't servants,
GENTH, DUNCKER, BROTHER & CO.
GEO. AUSTIN WORN.

J. COLLIER,
Collector of the Port of San Francisco.

(Copy.)

SAN FRANCISCO, October 18th, 1850.

J. Collier, Collector of Customs, Port of San Francisco.

SIR:—Our advices this morning per Bark Merlin, from Manilla, inform us of the shipment to our address per said vessel of

G. G. 148 cases brandy each 1 dozen.
877 A. A. 24 " " " 1 dozen.

which as contraband goods we hereby abandon to your control.

Respectfully,
Your obt. servt.
(Signed) EVERETT & CO.

(Copy.)

SAN FRANCISCO, May 11th, 1850.

Col. James Collier, Collector at San Francisco.

DEAR SIR:—We have received, in the cargo of the Ship Wodan, from Canton, six hundred baskets of Cognac Brandy, marked D and

A, which was not shipped with any intention of defrauding the revenue, but for want of knowledge of the law, and which we hereby surrender, to save further difficulty in regard to ship and cargo.

878 Very respectfully,

DALL & AUTIN.

D. & A. 600 baskets ½ dozen Cognac Brandy.

"*Schedule No.* 62."

(Copy.)

TREASURY DEPARTMENT, 1st December, 1851.

Received of James Collier, Esq., late Collector of Customs for the District of California, the undermentioned papers, viz.: copies of the following bonds:

[A.] William Sim, principal, and A. M. Vanostrand, surety, in the sum of $10,000, for releasing the cargo of the English Barque Collooney, Captain Livingston, date 23d February, 1850.

879 [B.] Joseph F. Woolley and Robert C. Janion, in the sum of $4000, for releasing the British Brig Lalla, Captain Joseph F. Woolley, dated 12th January, 1850 (accompanied by copy of a certificate of two persons appraising the brig at $2000).

[C.] Charles Minturn, attorney for Steamer Senator, and Joseph Ruckle, in the sum of $10,000, for releasing 120 tons coal by British Brig Ocean, date 18th January, 1850.

[D.] Charles Melhado, Cæsar F. Schwerin, and Edward
880 D. Hentley, in the sum of $8000, for releasing 120 packages of merchandise per British Brig Ocean, dated 16th January, 1850.

[E.] A. Hugnes with a deposit of $600, for releasing goods per British Barque Ocean (in C. and D. she is called a brig), dated 5th February, 1850.

Also the following acts of abandonment of malt and other liquors seized by Collector Collier, the ultimate decision to be left to the Secretary of the Treasury, or to the Solicitor of the same, viz.:

881 AA. 30th Nov., 1849. Thomas G. Balcarce, by Barque Siren.

BB. 30th Nov., 1849. Theodore Krook, by Hamburg Bark Johanna.

CC. 28th Nov., 1849. N. Dan, by Hamburg Ship Franciska.

DD. 24th Dec., 1849. S. H. Viris, by Danish Ship Androkolis.

EE. 24th Nov., 1849. Jose Justinniana Rodrigues, by Hamburg Ship Franciska.

FF. 24th Nov., 1849. Albert Brenning, by Hamburg Ship Franciska.

Also the following original letters to Collector Collier:

882 F. 10th Dec., 1849. George S. Wardle & Co., respecting the malt and other liquors by the British Brig Giraffe.

G. 27th Nov., 1849. From Starkey, Janion, & Co., respecting liquors by the Barque Secret, Bremen Schooner Athens, British Barque Chance, and Bremen or Hamb. Barque America.

H. 19th June, 1850. From A. W. Fayer, abandoning goods per Schooner Black Dog.

I. 8th July, 1850. From J. Gardet, respecting brandy per Ship Alcibiade, Rocher de St. Malo, and Vaillant.

J. 17th June, 1850. From J. Gardet, respecting the exportation of the brandy per Ship Vaillant.

883 K. 25th April, 1850. From C. Griswold, abandoning beer per Ship Tarolinta.

L. 13th March, 1850. From Chas. Christianer, abandoning goods per Caroline and Johanna.

M. 20th Nov., 1849. From Edward Heeren, master of Bremen Ship Athens, abandoning certain goods.

N. 25th March, 1850. From Macondray & Co., abandoning liquors by the Schooner Hopewell.

O. 25th Sept., 1850. From Genth D. B. & Co., abandoning liquors per Schooner Flora.

884 P. 11th June, 1850. From O. B. Elsworth, abandoning certain liquors by the Ralph Bernal.

Q. 2d May, 1850. From Hart Brothers, abandoning liquors per Ship Thames.

R. 8th Aug., 1850. From J. B. Montefiore, abandoning liquors per British Ship Agincourt.

S. 10th Aug., 1850. From Genth D. B. & Co., abandoning brandy per British Ship John Calvin.

T. 18th Oct., 1850. From Everett & Co., abandoning brandy per Ship Merlin.

U. 11th May, 1850. From Dall and Austin, abandoning brandy per Ship Wodan.

WM. L. HODGE,
Acting Secretary Treasury.

"*Schedule No.* 63."

(Copy.)

(Translation.)

885 VICE CONSULATE OF FRANCE, AT SAN FRANCISCO.

SAN FRANCISCO, 28th December, 1849.

MR. COLLECTOR:—Various owners of brandy, in cases of 12 bot-

tles, seized provisionally by decision of the Custom House, have desired me to solicit now from you the sale at auction of these brandies, while awaiting the decision that his Excellency the Secretary of the Treasury shall make on this question. The expenses of all kinds, particularly those of storage, are rising in such a degree that in a few months the value of this merchandise will be con-
886 siderably diminished. I hope, then, Mr. Collector, that neither the interests of the Treasury, nor of the owners will be injured by granting the request which I have had the honor to submit to you, and that you will be willing to order the sale in the shortest possible time, of the brandies, a description of which I annex to this despatch. Be pleased to receive, Mr. Collector, the renewed assurances of the high consideration of

Your very humble and
Very obedient servant,
E. GUYT.

"*Schedule No.* 64."

(Copy.)

SAN FRANCISCO, December 12th, 1849.

SIR,—With reference to the twenty-five packages of ale
887 and porter on board of the British Schooner "Coquette," from Sydney, which are stated on the certified invoice to contain 8 dozen each, I beg leave to acquaint you, that, upon perceiving the erasure which had evidently been made in the invoice, particular inquiries were made with respect to it; and it was only upon receiving positive assurances that the erasure was made previous to the invoice being certified by the American Consul at Sydney, that we allowed the entries for the cargo to be made; and it was not until the goods were landed, that we became aware
888 that the packages were not what they were represented.

Under these circumstances, therefore, we have placed all the ale and porter in question in charge of Mr. Bartol as confiscated goods.

I have the honor to be, sir,
Your most obedient servant,
ROBERT C. JENNING,
For Starkey, Janion & Co.

J. COLLIER, Esq.

"*Schedule No.* 65."

(Copy.)

SAN FRANCISCO, June 3d, 1850.

SIR,—I have to acknowledge, that some of the owners on board the British Barque Elizabeth Archer, of which I am master, have been engaged and detected in smuggling. I suppose, they may have

smuggled some twenty cases, more or less, of ale. I regret
889 this; but desirous to avoid litigation, I have to request that you will assess such fine as in your judgment may be right. I am aware that this fine can only be inflicted by you at my own instance, and it is my desire that you should do so. The ale you have possession of is hereby surrendered unconditionally.

Respectfully,

CHARLES COBB.

To J. COLLIER,
Collector.

"*Schedule No.* 66."

(Copy.)

Know all men by these presents, that, whereas J. Collier, as Collector of Customs for the District of Upper California, has seized as forfeited certain packages of spirits, and porter, and ale; the
890 spirits in packages of less than fifteen gallons, and the ale and porter in barrels containing less than six dozen each, imported into said District in the Hamburg Ship Franziska.

Now, this is to witness, that said spirits and ale having been surrendered to the United States by the owners thereof, until the legal question as to the validity of said seizure shall have been decided by the Secretary of the Treasury or the Soliciter thereof,

I, N. Dan, master of said ship, do also hereby surrender, in the same manner, and upon the terms above stated, all right in law or equity which I may have for myself and in behalf of the
891 owners of said ship, to any freight upon the herein-mentioned merchandise.

N. DAN.

SAN FRANCISCO, November 28th, 1849.

"*Schedule No.* 67."

(Copy.)

SAN FRANCISCO, 28th April, 1850.

To J. COLLIER, Esq.,
Chief Collector of Customs, &c., &c., &c.

SIR,—Having received from you a correct knowledge of the situation in which the Brig Giraffe (from Sidney), of which I am supercargo, was placed, by having illegal packages of ale and porter on board, and which was, according to your tariff, legally taken from me, and having applied, by the advice and through the medium of my agents to W. M. Meredith, Esq., Treasurer, at Washing-
892 ton, for redress in that case, I beg to state the cause why I so applied.

On my arrival here, an entire stranger, found it necessary to place

my business in the hands of an agent, was therefore recommended to Messrs. G. S. Wardle & Co, in whom I confided as men of business, and as persons possessing a thorough knowledge of your laws and customs, with whom I consulted on the seizure in question, and by whom I was recommended to sanction an application, drawn up by their managing man, Mr. Wadsworth, not having been
893 informed by him, that my vessel was as much in danger of confiscation as the goods; nor was I aware but that it was a customary transaction to apply for the restoration of property so seized, if shipped in ignorance. However, sir, but a short time had elapsed before I learned, on the perusal of your tariff, that I am entirely indebted to your consideration and clemency in the affair, for not losing vessel, and for which I beg to offer, on the part of the owners, Robert Edward Tooth, my grateful acknowledgments and my hearty thanks for your handsome treatment to myself; and I
894 hereby, on their behalf, disclaim all pretensions of right to the property so legally taken, and to renounce all thoughts of further moving in the affair.

Trusting this will prove satisfactory, with the utmost respect, I beg to subscribe myself, sir,

Your most obedient servant,
SIMON LAKE.

"*Schedule No.* 68."

(Copy.)

TREASURY DEPARTMENT,
September 12th, 1853.

SIR,—Enclosed you will receive a copy of a letter, this day addressed to the Assistant Treasurer of the United States, at New York, authorizing him to receive a present payment on account of the debt due by James Collier, late Collector at California, to
895 be brought into the future adjustment and settlement of his accounts.

I am very respectfully,
JAMES GUTHRIE,
Secretary of the Treasury.

JOHN A. COLLIER, Esq.,
Of New York. Present.

TREASURY DEPARTMENT, September 12th, 1853.

SIR:—A proposition has been made to this Department by the sureties on behalf of James Collier, late Collector of California, to make a deposit with you by way of present payment, on account of the balance due by him. The said payment may be as follows,
896 viz.: $216,712 43, as adjusted by the Commissioner of the Revenue, less 1st, fines, penalties, and forfeitures, as stated by the Auditor, $34,915 43; and 2d, commissions on his collections, $63,250 95, making of principal to be deposited,

$118,546 05

$118,546 05

Interest from 14th Jan., 1851, to 13th Sept., 1853, 2 years and 8 months, at 6 per cent., $18,967 37

$137,513 42

and leaving the two items deducted, with others, for future consideration and adjustment.

897 I have, therefore, to request, that you will receive the said aggregate sum, or either of the two which compose it, which may be offered, and issue duplicate certificates of the deposit, stating that the deposit is on account of the debt of said Collier, and specifying the character of the deposit received, whether for principal or interest, and by whom made.

I am, very respectfully,
Signed, JAMES GUTHRIE,
Secretary of the Treasury.

JOHN A. DIX, Esq.,
Assistant Treasurer, U. S., N. Y.

"*Schedule No.* 69."

(Copy.)

No. 520.

898 OFFICE OF THE ASSISTANT TREASURER, U. S.
New York, 16th Sept. 1853.

$100,000.

I certify, that George Law and John A. Collier, as sureties of James Collier, late Collector of California, have this day deposited to the credit of the Treasurer of the United States, one hundred thousand dollars on account of principal of the debt of the said James Collier to the U. S., for which I have signed duplicate receipts. In making this deposit, it is understood and declared by the said George Law and John A. Collier, that it is for the full amount of the penalty of two official bonds of said James Col-

899 lier to the United States, of the 3d of April, 1849, each in the penalty of fifty thousand dollars, in which the said James Collier is principal, and George Law and John A. Collier, are sureties, conditioned for the faithful discharge of the duties of said James Collier in the Office of Collector of the Customs for the District of Upper California, and Inspector of the Revenue for the Port of San Francisco in the Territory of Upper California.

JOHN A. DIX,
Assistant Treasurer.

"*Schedule No.* 70."

(Copy.)

No. 521.

OFFICE OF THE ASSISTANT TREASURER, U. S.
New York, Sept. 16th, 1853.

I certify, that John A. Collier, as surety of James Collier,

late Collector of California, has this day deposited to the credit of the Treasurer of the United States, eighteen thousand five hundred and forty-six dollars and five cents, on account of principal of the debt of the said James Collier to the United States, for which I have signed duplicate receipts. It is understood and declared by the said John A. Collier in making this deposit, that it is made by him as one of the sureties, with Daniel L. Collier and Arnold H. Dorhman, in the official bond to the United States of said James Collier as Collector of the Customs of the Territory of California, dated the 14th day of November, 1849, in which the said James Collier is principal, and John A. Collier, Daniel L. Collier, and Arnold H. Dohrman are sureties, in the penalty of fifty thousand dollars, conditioned for the faithful performance by the said James Collier of his official duties. It is also understood and declared by said John A. Collier, that the sum above deposited, together with the sum of one hundred thousand dollars this day deposited by George Law and John A. Collier, as sureties upon certain two other official bonds, dated April 3d, 1849, and for which a separate certificate is given, making in the aggregate the sum of one hundred and eighteen thousand five hundred and forty-six dollars and five cents, and is to be applied as payment to that amount of principal, and not for interest, on account of the balance of $216,712 43, claimed to be due to the United States from the said James Collier, as adjusted by the Commissioner of the Revenue, and referred to in a letter from Hon. James Guthrie, Secretary of the Treasury, to John A. Dix, Assistant Treasurer of the U. S., at New York, dated the 12th September, 1853.

JOHN A. DIX,
Assistant Treasurer.

"*Schedule No.* 71."

(Copy.)

NEW YORK, Sept. 16th, 1853.

Hon'ble James Guthrie, Secretary of the Treasury.

Sir:—In making the several payments by the sureties of James Collier, late Collector of Upper California, amounting in the aggregate to the sum of $118,546 05, I desire on behalf of the sureties that it be expressly understood, that they do not thereby admit this amount to be due, nor do they admit their liability upon the official bonds or either of them, but on the contrary, it is insisted that they are not by law liable to pay any part thereof.

With great respect,
Your obed't serv't,
JOHN A. COLLIER.

In the letter addressed to the Assistant Treasurer, New York, the following was added: * * * * "and I send by this day's mail a letter of the like tenor to the Secretary of the Treasury."

"*Schedule No.* 72."

(Copy.)

OFFICE OF THE ASSISTANT TREASURER, U. S.
New York, 16th Sept., 1853.

Hon. JAMES GUTHRIE,
Secretary of the Treasury.

SIR:—Messrs. George Law and John A. Collier, have this day deposited the sum of $118,546 05, on account of principal of the debt of James Collier, late Collector of California, the amount which you authorized me to receive from them, as principal, in your letter of the 12th instant.

They wished me to receipt for the sum of one hundred
905 thousand dollars, as in full of the penalty of two official bonds of the 3d April, 1849. I of course refused to do so, or to incorporate such an admission into the certificate, but at their request, and particularly that of Mr. Law, who was tenacious on the subject, I added to the certificate their declaration of their understanding in making the payment. I did not suppose that it would affect in any way the rights of the United States or the parties, or that there could be any objection to it.

906 I enclose copies of the certificates. After delivering the certificate of deposit for $100,000, Mr. Collier handed me the enclosed letter. I write for the mail, and have only time to add that

I am your obd't servant,
(Signed) JOHN A. DIX,
Assistant Treasurer.

"*Schedule No.* 73."

(Copy.)

No. 520.

OFFICE OF THE ASSISTANT TREASURER, U. S.
New York, 16th Sept., 1853.

$100,000.

I certify, that George Law and John A. Collier, as sureties of James Collier, late Collector of California, have this day deposited to the credit of the Treasury of the United States, one hundred thousand dollars, on account of principal of the debt of the
907 said James Collier, to the United States, for which I have signed duplicate receipts.

In making this deposit it is understood and declared by the said George Law and John A. Collier, that it is for the full amount of the penalty of two official bonds of said James Collier to the United States, of the 3d of April, 1849, each in the penalty of fifty thousand dollars, in which the said James Collier is principal, and George Law and John A. Collier are sureties, conditioned for the faithful

discharge of the duties of the said James Collier, in the
908 office of Collector of the Customs for the District of Upper California, and Inspector of the Revenue for the Port of San Francisco, in the Territory of Upper California.

(Signed) JOHN A. DIX,
Assistant Treasurer.

"*Schedule No.* 74."

(Copy.)

No. 521.

OFFICE OF THE ASSISTANT TREASURER, U. S.
New York, 16th Sept. 1853.

$18,546 05.

I certify, that John A. Collier, as surety of James Collier, late Collector of California, has this day deposited to the credit of the Treasury of the United States, eighteen thousand five hundred and forty-six dollars $\frac{5}{100}$, on account of principal of the debt of the said James Collier, to the United States, for which I have signed
909 duplicate receipts. It is understood and declared by the said John A. Collier in making this deposit, that it is made by him as one of the sureties, with Daniel L. Collier and Arnold H. Dohrman, in the official bond to the United States, of the said James Collier, as Collector of the Customs of the Territory of California, dated the 14th day of November, 1849, in which the said James Collier is principal, and John A. Collier, Daniel L. Collier, and Arnold H. Dohrman are sureties, in the penalty of fifty thou-
910 sand dollars, conditioned for the faithful performance by the said James Collier of his official duties. It is also understood and declared by said John A. Collier, that the sum above deposited, together with the sum of one hundred thousand dollars, this day deposited by George Law and John A. Collier, as sureties upon certain two or three official bonds, dated April 3d, 1849, and for which a separate certificate is given, making in the aggregate the sum of one hundred and eighteen thousand five hundred and forty-six dollars $\frac{5}{100}$, is to be applied as payment to that amount
911 of principal, and not for interest, on account of the balance of $216,712 43, claimed to be due to the United States, from the said James Collier, as adjusted by the Commissioner of the Revenue, and referred to in a letter from Hon. James Guthrie, Secretary of the Treasury, to John A. Dix, Assistant Treasurer of the United States, at New York, dated the 12th September, 1853.

(Signed) JOHN A. DIX,
Assistant Treasurer.

"*Schedule No.* 75."

(Copy.)

TREASURY DEPARTMENT,
September 17th, 1853.

SIR: I am in receipt of your letter of 16th inst., in reference to

the deposit made with you, as Assistant Treasurer, by George Law and John A. Collier, on account of principal of the debt of
912 James Collier, late Collector of the Customs at San Francisco, California, and transmitting copies of the receipts given by you to the parties for said deposit, which are satisfactory to the Department. If you have preserved your computation of interest, in the case of Mr. Simeon Draper, I will thank you to forward it to the Department for comparison with that made by the First Auditor.

Very respectfully,

Your obdt. servt.,

JAMES GUTHRIE,
Secretary of the Treasury.

JOHN A. DIX, Esq.,
Assistant Treasurer, New York.

"*Schedule No.* 76."

913 (Copy.)

NEW YORK, 16th September, 1853.

Hon. James Guthrie, Secretary of the Treasury.

SIR: The sureties of James Collier, late Collector of Upper California, have this day paid into the Sub-Treasury office, New York, the sum of $118,546 05, agreeably to the understanding with you upon the subject, being the principal, without interest, according to the statement furnished by your Department to the Assistant Treasurer, a copy of which was furnished to me; accompanying the payment, a note of the like tenor of the one herewith enclosed to you, was handed to the Assistant Treasurer.

I understand that Judge Nelson has delivered an opinion
914 in the New York cases, which present the question as to the penal duties, that they are distributable, as penalties; but it came up, as I understand, upon a motion to dissolve the injunction, and is not, therefore, as I suppose, in the shape of a final decree. If this be determined, then the late Collector of Upper California will, of course, be entitled to his distributive share of penal duties, which were disallowed in the statement of his account of 7th March, 1853. I now take it for granted, that the criminal proceed-
915 ings will be abandoned, or no further prosecuted; but as the day of hearing upon the habeas corpus in his case is now near at hand, and I expect to be present if the matter is still to be pressed, and must, in that case, leave early next week for Steubenville, I respectfully urge an immediate decision upon this point, and that you will advise me by telegraph, and also by mail, directed to me at Binghampton, N. Y., of your decision. Please, also, give notice, in like manner, to the late Collector, directed to him at Steubenville.

916 I shall probably, at some convenient day, address you upon the subject of this case in detail, and shall hope to remove

the unfavorable impressions which seem to be entertained in your Department, and I hope, indeed, that I have already given you more favorable impressions by the explanations submitted to you at our recent interviews.

Very respectfully,
Your obedient servant,
JOHN A. COLLIER.

"*Schedule No.* 77."

(Copy.)

"Telegraphic Despatch, 17th September, 1853. By telegraph dated

WASHINGTON, September 17th, 1853.

Received—New York, Sept. 17th, 1853.
To JOHN A. COLLIER.

Upon the consultation, the dismissal of the prosecution
917 was declined.

JAMES GUTHRIE."

"*Schedule No.* 78."

(Copy.)

TREASURY DEPARTMENT,
September 17th, 1853.

SIR: The Government has determined not to interfere with the criminal proceedings against James Collier, formerly Collector of the Customs at San Francisco, California, and this information is communicated in accordance with your request, to enable you, if you think proper, to be present at the hearing of the habeas corpus, before Judge Jewett, at Steubenville, Ohio, fixed for the 27th of the present month.

Very respectfully,
Your obedient servant,
JAMES GUTHRIE,
Secretary of the Treasury.

JOHN A. COLLIER, Esq.
918 Binghamton, New York.

"*Schedule No.* 79."

(Copy.)

BINGHAMTON, N. Y., 5th Oct. 1853.

Hon. H. J. ANDERSON,
Commissioner of Customs.

SIR:—On my return from Steubenville, I find your favor of the 26th Sept., with enclosures. In your re-statement of account of late Collector of Upper California, you have estimated the amount of fees for his entire term, at the rate of $3898 per month. I have

never been furnished by the late Collector with a statement of the fees, nor do I know that he kept any account of them; he
919 acted under the impression that the fees belonged to him under the Act of March, 1849, and may not be able to give the true amount. I think, however, that the fees must be very much overrated in this account.

Will you please to inform me by what standard, or upon what basis you have adopted this sum $3898 per month, as a proximate estimate. I observe, also, that the Collector, in this statement, has no credit for the amount paid by his sureties to the sub-Treasurer, at New York, on the 16th September, 1853, being the sum
920 of $118,546 05, of which you must of course have been advised prior to the date of your letter. I need scarcely add that the large items of interest will of course be objected to on the trial, and divers items disallowed will be claimed.

Very respectfully,
Your obedient servant,
JOHN A. COLLIER.

"*Schedule No.* 80."

(Copy.)

TREASURY DEPARTMENT, Office of Commissioner of Customs.
October 31st, 1853.

SIR:—Having just returned to the office here, after an absence of some weeks, I find your letters of the 5th and 22d instant, which I regret to observe have remained unanswered. The acting
921 Commisioner not being fully conversant with all the proceedings in reference to the settlement of the accounts of James Collier, late Collector of San Francisco, thought it best to defer an answer until my return.

I now hasten to reply to your inquiry. In regard to the charge of $3898 per month, for official fees, I would state, that it is based upon the report of Mr. Rodman, and the official accounts of the first three months, rendered by T. Butler King, the immediate successor of Mr. Collier, and is an average of the three months reported
922 by Rodman, and the three months returned by King. This is in pursuance of directions received from the Secretary of the Treasury, with a copy of which I think you were furnished. The amount paid to the Assistant Treasurer of New York, referred to by you as paid by the sureties of James Collier, was not entered, as I had no official notice given to me of its payment, but I am now directed by the Secretary to carry the sum so paid on to the
923 account, and it will appear in the copy to be transmitted to James Collier. In the amount charged for interest I have followed the rule indicated by the Secretary, in the paper above referred to; the charge itself is founded on the 1st section of the Act

of the 3d March, 1797, which also directs the charge of commissions against delinquent Collectors.

I am, very respectfully,
Your obedient servant,
H. J. ANDERSON,
Commissioner of Customs.

Hon. JOHN A. COLLIER,
Binghamton, N. Y.

"*Schedule No.* 81."

(Copy.)

TREASURY DEPARTMENT, Office of Commissioner of Customs,
November 2d, 1853.

924 SIR:—You will receive herewith a re-statement of your accounts with the United States, made by order of the Secretary of the Treasury, and certified to the Register of the Treasury, on the 22d of September last, accompanying which statement you will find a statement of differences, particularizing the items which have been disallowed in your account, and the debits, which upon a full and careful revision of your accounts, have been added thereto.

To the balance thus found due to the United States, viz.:
925 $241,329 47, has been added the sum of $5661, the amount of a special account for rents received by you, belonging to the United States, and not credited in your accounts, and from the total of these amounts has been deducted the sum of $118,546, paid into the Treasury, at New York, on the 16th of September last, leaving the sum of $128,444 47 due from you to the United States, which sum you are requested forthwith to deposit with John B. Guthrie, Esq., who is authorized to receive the same, by the Secretary of the Treasury, and by whose hand you will receive this.

926 The items disallowed in your accounts have been carefully examined, and it is believed that no legal or equitable ground exists for their allowance. In regard to the items charged in your account as Collector's share of proceeds of sales of liquors seized on board certain French vessels, amounting to the sum of $47,000, I would observe, that you were admonished by repeated letters from the Treasury Department, that the merchandise so seized could only be sold in pursuance of a decree of condemnation
927 by a court of competent jurisdiction, and that in proceeding to dispose of said liquors in contravention of the law, and the direction of the Department, you forfeited any claim which, under other circumstances you might have had. But even if the legal objections to this charge were waived, it would sufficiently appear that there was no equitable claim on the Government for its allowance.

If the proceedings on the part of the Collector had been all
928 regular, there would be no pretence of claim for more than the net proceeds of sale. The expenses known to have been

incurred and paid by the United States, in the custody and sale of these liquors, amount to $27,296 50, and the sums paid and to be paid to the owners or importers, by the United States, under the Act of September 28th, 1850, by reason of these seizures, amount to $66,618 29, showing that the proceedings of the Collector have involved an expense to the Government beyond the gross
929 amount of sales credited by him.

In reference to the charge of $12,300, being the share claimed by the Collector of bonds, taken for vessels and cargoes seized by him, and afterwards released, it is sufficient to say, that none of these bonds have been collected by the United States, and are, therefore, not now a proper subject of charge by the Collector.

The disallowance of the sum of 14,000 dollars, charged as collector's share of penal duties, is fully explained in the state-
930 ment of differences. The Department does not recognize the additional duties as distributable penalties, and the present Secretary of the Treasury has recently so decided. These comprehend the principal items of disallowance, with the exception of your charge of 63,000 dollars for commissions on moneys received, and as the whole matter of compensation has been stated upon principles different from those adopted by you, I proceed to mention the grounds upon which it has been adjusted.

The Act of March 3d, 1849, provides, that the Collector
931 shall receive a salary of 1500 dollars, and the fees and commissions allowed by law. This act is understood to be subject to the limitations prescribed by the Act of the 7th May, 1822, and this understanding of its terms was clearly and explicitly communicated to you in the letter of instructions first furnished to you by the Secretary of the Treasury.

Under this construction of the Act of 1849, therefore, you have been allowed at the rate of 3000 dollars per annum, until February 14th, 1850; and in pursuance of the directions in Secretary
932 Corwin's letter above referred to, and which is acquiesced in by Secretary Guthrie, the compensation has been carried back to the date of the filing of your bond with the First Comptroller.

From February 14th, 1850, when, by a Resolution of Congress, the restrictions by law upon salaries in California and Oregon was suspended, until September 27th, 1850, when a salary of 10,000 dollars was established for the Collector at San Francisco, you have been allowed 1500 dollars, per year, salary; all the fees
933 and commissions on all receipts at 3 per cent. from September 27th, 1850, to the end of your official term, at the rate of 10,000 dollars per year.

The 2d section of the Act of March 2d, 1799, provides, that it shall be the duty of all Collectors to keep accurate accounts of all fees and official emoluments received by them, and to transmit the

same, verified by oath, annually to the Department. As you have failed to comply with this requirement of law, there were no
934 certain means in the possession of the Department of ascertaining precisely what your official fees and emoluments amounted to. In order to obtain what was regarded as a fair estimate, I have taken the sum per month, stated to have been received by you for three months, in Mr. Rodman's report, the first three months returned by your immediate successor, and given you credit and charged you with the average of these sums per month.*

Interest has been charged upon the balance thus found due
935 from the day of your retirement from office on January 15th, 1850, to September 14th, 1853. This charge is made in conformity to the positive requirements of the Act of 3d of March, 1797.

I am, very respectfully,
Your obedient servant,
H. J. ANDERSON,
Commissioner of Customs.

JAMES COLLIER, Esq.,
Late Collector of the Customs at San Francisco.
Steubenville, Ohio.

"*Schedule No.* 82."

(Copy.)

TREASURY DEPARTMENT,
November 5th, 1853.

SIR,—John B. Guthrie, Esq., of Pittsburg, Pa., will deliver to you, together with this letter, a letter from the Commissioner of Customs, dated the 2d instant, and a re-statement of your account as late Collector of Upper California, showing a balance due
937 from you thereon of $128,444 47.

This sum you are hereby directed forthwith to deposit to the credit of the Treasurer of the United States, with John Hastings, Esq., Surveyor of the Customs, and designated Depository of the Treasury at Pittsburg, and take duplicate receipts for such deposit, one of which is to be transmitted to this Department.

I am, very respectfully,
JAMES GUTHRIE,
Secretary of the Treasury.

JAMES COLLIER, Esq.,
Late Collector of Upper California,
938 Steubenville, Ohio.

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* NOTE.—In reference to this estimate of fees received by you, I am instructed by the Secretary of the Treasury to say, that, if upon the production of
936 your original Book of Receipts, verified by oath, it shall appear that the estimate is erroneous, the account will be so far restated as to make it conform to what shall be found to be the amount actually received by you.

H. J. A.

"*Schedule No.* 84."

Report of the Secretary of the Treasury, made in compliance with a resolution of the Senate calling for information in relation to the revenue collected by James Collier, late Collector of the Customs at San Francisco.

August 10th, 1852. Laid upon the table, and ordered to be printed.

TREASURY DEPARTMENT, August 7th, 1852.

SIR:—In reply to the resolution of the Senate of 6th instant, I have the honor to transmit herewith a tabular statement,
939 marked A., showing the amount collected by James Collier, late Collector at San Francisco, in detail, for each quarter and fraction of quarters, from 12th of November, 1849, when he entered upon the duties of his office, until the 14th January, 1851, when he was superseded by T. Butler King, Esq., and exhibiting under separate heads the amount not only collected by him for duties on merchandise, but also for tonnage and light money, Marine Hospital money, fines, penalties, and forfeitures, proceeds of seized goods, storage, and rent of public reservation.

940 In further reply to said resolution, I have the honor to state:

1. The amount paid over by him to his successor, T. Butler King, was $893,705 53, which sum was paid by order and under the authority of this Department.

2. The amount due by said James Collier, by the last settled account, on the 26th of December, 1851, is $750,933 80, of
941 which Mr. Collier asserts the sum of $391,364 25 has been twice charged to his account in the item of $551,658 84 for special deposits made for unascertained duties; but the ascertained amount of which was as above, $391,364 25, and which he asserts is included in the general and gross amount of duties credited in his account—the correctness of which statement will no doubt be ascertained by the legal proceedings against Mr. Collier now in progress.

Mr. Collier also claims other credits, bearing upon the balance which exists against him on the books of the Treasury.

942 3. In order to recover and secure the amount of the balance claimed from Mr. Collier, suits have been instituted against him in the District of Ohio, and also in the Northern and Southern Districts of New York, where his sureties, John C. Collier and George Law, reside; but to save all unnecessary costs, all the parties have entered their appearance to the suit in the Southern District of New York, where the whole merits of the case are to be tried, and proceedings have been suspended in the others.

4. The amount paid over by Mr. Collier to Mr. King was
943 credited by the latter to the United States in his account as Collector, as being received on the 14th day of January, 1851; but no separate account was subsequently kept or rendered as to the special disposition of that particular sum, but which of course became blended with the subsequent current receipts by Mr. King, and was disbursed by him in the payment of drafts drawn upon him by the Treasury for military, naval, and other public expenditures in that quarter, besides $500,000 transferred by order of this Depart-
944 ment to New York, and deposited with the Assistant Treasurer at that place. Mr. King has of course also paid from the funds in his hands the current expenses of his office incurred in the collection of the revenue at San Francisco.

I am, sir, very respectfully, your obedient servant,

WM. L. HODGE,
Acting Secretary of the Treasury.

Hon. WM. R. KING,
President pro tem. of the Senate.

A.

Statement of the Receipts of James Collier, late Collector of the District of Upper California, from November 12, 1849, to January 14, 1851.

Date.	Duties on merchandise.	Duties on tonnage and light money.	Marine Hospital money.	Special deposits.	Fines, penalties, and forfeitures.	Storage.	Proceeds of sales of seized goods.	Rent of public reservations.	Total.
From Nov. 12 to Dec. 31, 1849,	$201,435 22	$13,702 62	$1,333 28	.....	.....	.....	.....	.....	$216,471 12
First quarter of 1850, ...	268,901 66	10,801 46	4,710 74	.....	.....	$20 00	.....	.....	284,433 86
Second quarter of 1850, ...	419,206 05	5,393 12	5,634 11	$87,186 09	$7,921 59	.....	.....	.....	525,341 06
Third quarter of 1850, ...	464,250 48	5,864 42	6,223 0[illegible]	180,794 20	62 50	1,298 36	$36,925 40	.....	695,418 43
Fourth quarter of 1850, ...	547,649 24	7,182 64	4,950 0[illegible]	247,028 15	.....	.....	2,550 46	.....	809,360 55
From January 1 to 14, 1851,	78,571 82	438 72	717 99	36,650 40	11,984 50	1,032 50	18,426 27	$5,661 00	153,483 20
	1,980,014 47	43,383 08	23,569 25	551,658 84	10,968 59	2,350 86	57,902 13	5,661 00	2,684,508 22

TREASURY DEPARTMENT, *Office of Commissioner of Customs, August 7, 1852.*

C. W. ROCKWELL, *Commissioner of Customs.*

"*Schedule No.* 84."

(Copy.)

TREASURY DEPARTMENT, September 14, 1853.

SIR: I wish the account of James Collier, as Collector of San Francisco, restated by the Auditor and Commissioner.

1st. I shall not change the direction made by my predecessor as to any of the credits which he ordered or sanctioned, however much I may differ or doubt about the items.

2d. I do not think that Collier is entitled to the credit for the $47,000, nor the $12,000, half penalties on English vessels bonded, nor the $14,000 for half additional duties, nor the sum claimed
950 as Commission, being none of these having been allowed by the accounting officers, nor passed upon favorably by my predecessor. The proceeds of sales of seized brandies, &c., would be subject to a deduction for the expenses, as stated by Commissioner and Auditor, which would materially reduce the sum. The Commissioner will cause a report to be made of the costs of each seizure of brandies, &c., by the names of the vessels and importers, the sales of which amounted to $94,000, stating the proceeds of sales and expenses of each separately, as far as the evidence in the De-
951 partment will allow, and stating the evidence upon which the statement is based, and he will append to said statement, a statement of the payment made by the Secretary of the Treasury, under the Act of 28th September, 1850, in each of said cases in which compensation has been made, including the items of such compensation, also the compensation with the items which has been so far claimed but not paid in each case, and the compensation yet to be claimed. These brandies were never condemned as required by the Revenue Laws, and therefore the Collector has no legal
952 claim, not having complied with those laws, and the sales by the Collector being without authority of law, the Secretary of the Treasury had authority to have remitted the forfeiture on the petition of the importers after certain preliminary proceedings in Court, which could only have taken place in Louisiana or Oregon. In place of these proceedings in Court, and the action of the Treasury, Congress passed the Act of 28th September, 1850, by which the Secretary was authorised to settle and pay for these seizures and sales as illegal, and the sums paid already exceed the balance of the proceeds of sales, and the facts exhibit that so far from the
953 Treasury being benefited by these seizures and sales, the United States have suffered an actual damage of many thousand dollars, and therefore the Collector has no equitable claim.

3d. The Collector has rendered no account of fees, which he is required to do by the 2d Section of the Act of 1799. In making up the new account he should be charged with these fees. If the Collector shall still fail to render that account, the charge can be made

A.

Statement of the Receipts of James Collier, late Collector of the District of Upper California, from November 12, 1849, *to January* 14, 1851.

945 Date.	Duties on merchandise.	Duties on tonnage and light money.	Marine Hospital money.	Special deposits.	Fines, penalties, and forfeitures.	Storage.	Proceeds of sales of seized goods.	Rent of public reservations.	Total.
946 From Nov. 12 to Dec. 31, 1849,	$201,435 22	$13,702 62	$1,333 28	.....	.....	.....	.....	.....	$216,471 12
First quarter of 1850, ...	268,901 66	10,801 46	4,710 74	.....	.....	$20 00	.....	.....	284,433 86
Second quarter of 1850, ...	419,206 05	5,393 12	5,634 11	$87,186 09	$7,921 59	.....	.....	.....	525,341 06
947 Third quarter of 1850, ...	464,250 48	5,864 42	6,223 0[illegible]	180,794 20	62 50	1,298 36	$36,925 40	.....	695,418 43
Fourth quarter of 1850, ...	547,649 24	7,182 64	4,950 0[illegible]	247,028 15	.....	.....	2,550 46	.....	809,360 55
948 From January 1 to 14, 1851,	78,571 82	438 72	717 99	36,650 40	11,984 50	1,032 50	18,426 27	$5,661 00	153,483 20
	1,980,014 47	43,383 08	23,569 25	551,658 84	10,968 59	2,350 86	57,902 13	5,661 00	2,684,508 22

949 TREASURY DEPARTMENT, *Office of Commissioner of Customs, August* 7, 1852.

C. W. ROCKWELL, *Commissioner of Customs.*

"*Schedule No.* 84."

(Copy.)

TREASURY DEPARTMENT, September 14, 1853.

SIR: I wish the account of James Collier, as Collector of San Francisco, restated by the Auditor and Commissioner.

1st. I shall not change the direction made by my predecessor as to any of the credits which he ordered or sanctioned, however much I may differ or doubt about the items.

2d. I do not think that Collier is entitled to the credit for the $47,000, nor the $12,000, half penalties on English vessels bonded, nor the $14,000 for half additional duties, nor the sum claimed
950 as Commission, being none of these having been allowed by the accounting officers, nor passed upon favorably by my predecessor. The proceeds of sales of seized brandies, &c., would be subject to a deduction for the expenses, as stated by Commissioner and Auditor, which would materially reduce the sum. The Commissioner will cause a report to be made of the costs of each seizure of brandies, &c., by the names of the vessels and importers, the sales of which amounted to $94,000, stating the proceeds of sales and expenses of each separately, as far as the evidence in the De-
951 partment will allow, and stating the evidence upon which the statement is based, and he will append to said statement, a statement of the payment made by the Secretary of the Treasury, under the Act of 28th September, 1850, in each of said cases in which compensation has been made, including the items of such compensation, also the compensation with the items which has been so far claimed but not paid in each case, and the compensation yet to be claimed. These brandies were never condemned as required by the Revenue Laws, and therefore the Collector has no legal
952 claim, not having complied with those laws, and the sales by the Collector being without authority of law, the Secretary of the Treasury had authority to have remitted the forfeiture on the petition of the importers after certain preliminary proceedings in Court, which could only have taken place in Louisiana or Oregon. In place of these proceedings in Court, and the action of the Treasury, Congress passed the Act of 28th September, 1850, by which the Secretary was authorized to settle and pay for these seizures and sales as illegal, and the sums paid already exceed the balance of the proceeds of sales, and the facts exhibit that so far from the
953 Treasury being benefited by these seizures and sales, the United States have suffered an actual damage of many thousand dollars, and therefore the Collector has no equitable claim.

3d. The Collector has rendered no account of fees, which he is required to do by the 2d Section of the Act of 1799. In making up the new account he should be charged with these fees. If the Collector shall still fail to render that account, the charge can be made

up from the facts reported by Mr. Rodman for the three months on the 3d page of his reports, taking the average of the three
954 months as a fair average for the whole time Mr. Collier was in office as Collector. To the balance thus made up should be added interest from the time the balance accrued, viz., of his quitting office.

I am, very respectfully,
JAMES GUTHRIE,
Secretary of the Treasury.

1st Auditor, &c., Commissioner of Customs.

"*Schedule No.* 85."

See House Doc. p. 12.

Certain extracts from House Document No. 17. First Session of the 31st Congress.—Marked "Schedule No. 85."

(This is Daniel Saffaran's letter of March 29th, 1849, to the Secretary of the Treasury.)

"*Schedules Nos.* 86, 87, 88, 89."

See House Doc. pp. 17 and 18.

Two letters from the defendant to the Secretary of the Treasury (Schedules Nos. 86 and 87), each dated April 4th, 1849.

(Daniel Saffaran's letter to defendant of same date, is included in Schedule No. 87.)

See House Doc. p. 20.

And another (Schedule No. 88) from the Secretary of the Treasury to the defendant, dated April 20th, 1849.

See House Doc. p. 12.

Also instructions from the Secretary of the Treasury to defendant (Schedule No. 89), dated 3d April, 1849.—Marked "Schedules Nos. 86, 87, 88, 89."

"*Schedule No.* 90."

(Copy.)

MONTEREY, December 12th, 1850.

COL. COLLIER.

Dear Sir:—On Sunday evening last, about 7 o'clock, my office was entered by false keys, and my safe broken open, and all my money taken. The only bags that I knew the contents of, was one containing about one hundred South American ounces, and about $600 *dollars* in Moffat's coin. There were also a bag of about $4000 American coin in another bag, and several bags of
995 silver. I was not gone over three-quarters of an hour from the office, and I think not over half an hour. We have five men arrested, and have obtained about $13,000 *dollars*, but nothing I can strictly identify. I have strong hopes of getting it; found the money under the stairs in a house of a lot of chaps from Sydney formerly, but lately from San Francisco.

I feel so bad you must excuse this. I can't write more.

A. RANDALL.

3010

une 30, 1852.

	Storage, Inspector's Fees, &c. &c.	Proceeds of Sale of Revenue Boat, &c,	Deposits to produce Certified Invoices.	Total Receipts.	Aggregate.
January 15	10,972 00			229,190 81	
March 4 to	6,182 00			216,568 05	
April 1 to J	39,784 19			713,575 35	
July 1 to S	28,778 39	40 00		522,388 29	
Oct. 1 to D	43,768 40		580 00	666,227 63	
January 1 t	24,147 65	1,369 10	1,170 00	528,698 59	
April 1 to J	12,438 24		1,345 00	494,294 00	3,370,942 72
January 10				2,682 40	
April 1 to J	'680 00			11,498 00	
July 1, 185	1,080 00			53,065 67	
April 1 to J				79 11	67,325 18
Dec. 12, 18					
July 1, 185				231 19	231 19
May 7 to D				2,269 18	
January 1 t				148 08	
April 1 to J				1,200 13	3,617 39
January 13				3,587 37	
April 1 to J				413 13	
July 1 to D				5,848 72	
January 1 t				1,343 09	
April 1 to .				340 22	11,532 53
March 7 to				6,161 96	
June 30 to				667 50	
Oct. 1 to D					
January 1 t					
April 1 to J				148 95	6,978 41
	167,830 87	1,409 00	3,095 00		3,460,627 42

1851, *to June* 30, 1852.

	ice Expenses of Srs. Grs. Mens.	Deposits to produce Certificate Invoices ref'd.	Disbursem'ts for Confidential Paym'ts.	To supply deficiency of Emol. of Sur. & Nav. Off.	Total Payments.	Aggregate.
January 15 t					107.381 10	
March 4 to M					58.227 74	
April 1 to Jul	015 08				229.557 33	
July 1 to Sep	855 55				223.081 91	
Oct. 1 to Dec.	234 75	70 00	912 50		217.663 24	
Jan. 1 to Mar	396 25		500 00		194.735 95	
April 1 to Jul	447 25	935 00	750 00	14,016 66	218 011 90	1,248,689 17
January 10 to					4.739 65	
April 1 to Jul					7,448 39	
July 1, 1851. t					25.241 25	
April 1 to Jul					7,207 28	44,636 57
Dec. 12, 1850,					1.663 04	
July 1, 1851, t					6.644 64	8,307 68
May 7 to Dec.					9.192 45	
July 1 to Mar					2.549 97	
April 1 to Jul					3.116 60	14,859 02
January 13 t					1,163 65	
April 1 to Jul					1,611 87	
July 1 to Dec.					4.306 20	
January 1 to					2,021 37	
April 1 to Jul					3.853 41	12.956 50
March 7 to J					3,512 42	
June 23 to Se					2.693 96	
Oct. 1 to Dec.					1,181 38	
January 1 to					1.531 00	
April 1 to Jul					2,454 95	11,323 71
	,948 88	1.005 00	2,162 50	14,016 66		1,340,772 65

TREASURY DEPARTMENT, REGISTER'S OFFICE.

By amount charged 1st Quarter, 1851, as paid John C. Hays, for expenses of transporting five females, under a writ of habeas corpus, the same having been since paid by the State Department, . .	$150	00
Amount received from C. W. Lawrence, late Collector of New York, by order of Comptroller of the Treasury, dated April 3d, 1849, . . .	6,500	00
Amount of money stolen from the Deputy Collector at Monterey,—disallowed by Treasury Department upon the ground, that it requires special act of Congress,—	8,110	29
	$178,260	29
By balance, ...	$80,493	78

February 12th, 1853.

JAMES COLLIER,
Late Collector of Upper California.

And the Counsel for the said parties having respectively rested the said case, the said Court, by the aforesaid District Judge so holding the same, delivered its opinion, instructions, and charge, to the said jury upon the matters aforesaid, as follows, that is to say:

First. That the defendant was entitled, in the settlement of the accounts in question in this case, to be allowed for the whole time of his said service, that is to say, from the third day of April, one thousand eight hundred and forty-nine, to the said fourteenth day of January, one thousand eight hundred and fifty-one, the rate of compensation allowed by the Act of Congress, entitled "An Act to extend the Revenue laws of the United States over the Territory and Waters of Upper California, and to create a Collection District therein;" passed the 3d day of March, one thousand eight hundred and forty-nine.

And the said counsel for the said plaintiffs, did then and there except to the said instructions so given to the said jury, and on the contrary, insisted that the said rate of compensation allowed by the last named Act was not applicable for any services rendered subsequently to the said twenty-eighth of September, one thousand eight hundred and fifty.

And the said Court did then and there further instruct the said jury,

Secondly. That the defendant is entitled to be credited, on his accounting with the Treasury Department, his salary at the rate of fifteen hundred dollars per annum, and the official fees and commissions at three per cent., on duties received by him during the whole period he continued to perform the duties of Collector in California.

And the said counsel for the said plaintiffs did then and there ex-

cept to such instruction, and insisted, that the said defendant was not entitled to be allowed said commission, upon any of the said moneys so received by him, and especially that he was not entitled to be allowed the commission upon any moneys so received by him, prior to the joint resolution of Congress, approved on the fourteenth day of February, one thousand eight hundred and fifty.

And the said Court did thereupon further instruct the said jury,

Thirdly. That the defendant was entitled to retain the sum of $34,915 43, being the moiety of net proceeds of liquors imported into the District of Upper California, in violation of the Revenue Laws of the United States, and seized and sold by the said Collector as forfeited to the United States.

But to this instruction the counsel for the plaintiffs did then and there object, and did on the contrary insist and pray the said Court to charge the said jury, that the said liquors, if forfeited to the plaintiffs, and duly seized by the defendant, in the name and on behalf of the plaintiffs, became thereby the property of the plaintiffs, and that if the said defendant, whilst so holding the said liquors, and professing to act for and on behalf of the said plaintiffs, caused the same to be sold, and received the proceeds of such sales, the moneys so received by him, were recoverable from him by the plaintiffs, as moneys had and received to their use; and further, that inasmuch as there had not been any judicial proceedings to establish said forfeitures, as required by law, the defendant was not entitled to claim credit in this action for a moiety of the proceeds of such sales; and further, that the said supposed acquiescence of such former owners, or their agents, was not relevant or material in point of law, and that no competent evidence had been given for which the said jury would be authorized to find any such acquiescence; and further, that the said supposed acquiescence of the Treasury Department was not relevant or material in point of law; and that no evidence had been given from which the said jury would be warranted in finding any such acquiescence.

And the said Court did then and there refuse to give to the said jury any of the said instructions so requested by the said counsel for the said plaintiffs: to which refusal, the said counsel for the said plaintiffs did then and there except.

And the said counsel for the said plaintiffs, did then and there except to the said instruction, thirdly and last above mentioned, as having been given to the said jury by the said Court.

And the said Court did then and there further instruct the said jury,

Fourthly. That the proceedings of the Secretary of the Treasury to restore certain of the proceeds of the seized and forfeited liquors, to the owners, assumed to be done under the provisions of the fourth section of the said Act of September, 1850, after the commencement of the suit, and without the concurrence of the defendant, notice to

him, that an order of restoration was applied for, could not divest the right and title of the defendant to the one moiety, which had been received by him, and had been a long period in his actual possession, and was received, as between him and the plaintiff, in a manner tantamount to that of a formal distribution of the proceeds, after condemnation by order of the Court.

And the said counsel for the said plaintiffs did then and there except to the said instruction.

And the said Court did then and there further instruct the said jury,

Fifthly. That if the sum of eight thousand one hundred and ten dollars and twenty-nine cents, received to the use of the plaintiffs by the Deputy Collector at Monterey, in the said District of Upper California, which forms part of the debits asserted against the defendant, were stolen from the said Deputy without neglect or default on his part, or on that of the said defendant, the said plaintiffs could not recover the same, or have any allowance therefor in this action.

And the said counsel for the said plaintiffs did then and there except to the said instruction.

And the said Court did then and there further instruct the said jury.

Sixthly. That in case it should appear that the sum of money paid by the defendant on the sixteenth day of September, one thousand eight hundred and fifty-three, was sufficient to satisfy all the lawful demands of the plaintiffs for principal money, exclusive of interest, that then and in that event the plaintiffs were not entitled to set up a charge of interest, made in the restatement of the defendant's account on the 22d of September, 1853, and the jury ought not to allow any interest whatever against the defendant in the said action.

And the said counsel for the said plaintiffs, did then and there except to the said instructions, and did also request the said Court to instruct the said jury, that on such sum as the defendant owed to the plaintiffs on the fourteenth day of January, one thousand eight hundred and fifty-one, interest should be allowed to the plaintiffs at six per centum per annum, from that day until the time of the payment on the sixteenth day of September, one thousand eight hundred and fifty-three; that the payment then made should be deducted from the whole amount of such principal and interest, and that interest on the balance thereafter remaining, if any, should be allowed to the plaintiffs against the defendant, from that time to the rendition of the verdict in this action.

And the said Court did then and there refuse to give to the said jury the said instructions so requested by the said counsel for the said plaintiffs.

And the said counsel for the said plaintiffs, did then and there except to such refusal.

And the said Court with the directions and instructions aforesaid,

left the said cause to the said jury, who then and there, under those directions and instructions, found their special verdict, which is set forth in the record of the judgment in this action.

And inasmuch as the said several matters so given in evidence as aforesaid, and the motions, decisions, directions, instructions, refusals, and exceptions aforesaid, do not appear by the said record of the verdict aforesaid, the said counsel for the said plaintiffs did then and there request the said District Judge, so then and there holding the said Court, to put his seal to this Bill of Exceptions, containing the said several matters so given in evidence as aforesaid, and the motions, decisions, directions, instructions, refusals, and exceptions aforesaid, according to the form of the statute in such case made and provided.

And the said District Judge, at the request of the said counsel for the plaintiffs, did accordingly put his seal to this Bill of Exceptions, pursuant to the statute in such case made and provided, on the fifth day of May, in the year of our Lord one thousand eight hundred and fifty-four.

SAM. R. BETTS.